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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–2555; Project Identifier AD–2025–00433–E; Amendment 39–23446; AD 2026–17–03]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain International Aero Engines AG (IAE AG) Model V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 engines. This AD was prompted by a manufacturer investigation that revealed that certain 3rd stage high pressure compressor (HPC) rotor blades were susceptible to shroud wear and blade failure. This AD requires replacement of affected 3rd stage HPC rotor blades with parts eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 24, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2555; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7655; email: carol.nguyen@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain IAE AG Model V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 engines. The NPRM was published in the *Federal Register* on November 18, 2025 (90 FR 51600). The NPRM was prompted by multiple reports of failed 3rd stage HPC rotor blades that resulted in engine fires, unplanned engine removals, aborted takeoffs, and in-flight shutdowns (IFSD). A manufacturer investigation revealed that 3rd stage HPC rotor blade part numbers (P/Ns) 6A8353 and 6A8688, installed on IAE AG Model V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 engines were susceptible to shroud wear and blade fractures. As a result, the manufacturer has developed an improved coating process that increases the durability of the shroud coating, mitigating wear, and reducing the risk of blade fractures. In the NPRM, the FAA proposed to require a full set replacement of affected 3rd stage HPC rotor blades with parts eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from seven commenters. Commenters included the Air Line Pilots Association, International (ALPA), American Airlines, Citizens Rulemaking Alliance, InterGlobe Aviation Limited (IndiGo), Lufthansa Technik, SIA Engineering Company (SIAEC), and United Airlines. ALPA supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request Regarding Withdrawing the NPRM

Lufthansa Technik commented that a change of category code may be sufficient to address the unsafe condition rather than an NPRM because the current failure mode for 3rd stage HPC rotor blades having P/N 6A8353 is not as serious as it was with older blades. Lufthansa Technik stated that IAE AG issued Service Bulletin (SB) V2500–ENG–72–0487, which introduced the current blade standard, and no corresponding AD was published at that time. Lufthansa Technik also stated that prior to the issuance of SB V2500–ENG–72–0487, 3rd stage HPC rotor blades fractured below platform but currently, either the clapper breaks off or the blade fracture occurs above platform, making the unsafe condition less severe and the necessity of an NPRM doubtful.

The FAA infers that the commenter is requesting that the NPRM be withdrawn. The FAA disagrees with the request. The FAA has identified airworthiness limitations and maintenance requirements as mandatory for an airplane's continued airworthiness. An operator's failure to accomplish these instructions could result in a variety of unsafe conditions, including rotor blade failure, which could result in engine fire, reduced control of the airplane, and engine IFSD.

In addition, the FAA may issue ADs to require actions to address unsafe conditions that are not otherwise being addressed (or are not addressed adequately) by normal maintenance procedures. The FAA may address such unsafe conditions by requiring revisions to maintenance or inspection programs, as applicable, as a condition under which airplanes may continue to be operated. The FAA has therefore determined that it is necessary to issue this final rule. The FAA did not change this AD as a result of this comment.

Request To Issue an NPRM or Justify Forgoing Notice and Comment

The Citizens Rulemaking Alliance requested that the FAA either convert this action to an NPRM with an expedited comment period and adopt an immediately effective interim AD only for tasks with compliance times that would lapse before the NPRM could be finalized or provide its justification for finding good cause to bypass notice and

comment procedures. Additionally, the commenter requested that the FAA provide the standard 30-day delayed effective date for non-urgent provisions. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is effective 35 days after its publication in the **Federal Register**. Therefore, the FAA did not change this AD as a result of this comment.

Requests To Reference Service Material and Clarify Compliance

American Airlines, IndiGo, and Lufthansa Technik requested that the FAA revise the NPRM to reference IAE AG SB V2500-ENG-72-0716, dated October 4, 2024. SIAEC also requested that the FAA clarify if accomplishing the 3rd stage HPC rotor blades replacement in accordance with IAE AG SB V2500-ENG-72-0716, dated October 4, 2024, demonstrates compliance with the NPRM. American Airlines stated that the terminating action for the requirements of the NPRM is replacement of the 3rd stage HPC rotor blades using IAE AG SB V2500-ENG-72-0716, dated October 4, 2024, but that material is not referenced anywhere in the NPRM. IndiGo specifically recommended revising paragraph (g) of the proposed AD to require replacing the 3rd stage HPC rotor blades in accordance with IAE AG SB V2500-ENG-72-0716, dated October 4, 2024.

The FAA agrees to clarify that replacing the 3rd stage HPC rotor blades in accordance with IAE AG SB V2500-ENG-72-0716, dated October 4, 2024, demonstrates compliance with the requirements of this AD because doing so changes the part numbers to those listed in the definition of “part eligible for installation” in paragraph (h) of this AD. The FAA disagrees with the request to reference IAE AG SB V2500-ENG-72-0716, dated October 4, 2024, in this AD because this AD already provides the necessary compliance procedures. The FAA did not change this AD as a result of this comment.

Request To Make Incorporation by Reference (IBR) Materials Reasonably Available

The Citizens Rulemaking Alliance requested that the FAA confirm that IBR materials are properly identified and reasonably available as required by 1 CFR 51.5 and 51.9. The commenter stated that if the preamble of the rule

lacks the identification of the specific documents and revision levels, and reasonable availability for free inspection via the docket, the FAA office, and the National Archives and Records Administration, IBR should not be approved until this is corrected.

The FAA notes that this AD does not IBR any material. Additionally, paragraph (k) of this AD specifies that there is no IBR in this AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the proposed AD to comply with the PRA if reporting is required or remove any mandatory reporting provisions or suspend enforcement until PRA requirements are satisfied. If reporting is not required, the commenter requested the FAA clarify that in the AD.

The FAA notes that this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Add Cost Estimate for New Blades

Lufthansa Technik requested that the FAA revise the estimated costs table of the NPRM to include the costs for a set of new blades. Lufthansa Technik stated that the table only includes costs for replacement with reworked blades, and this does not reflect actual modification costs because the blade rework is not an established alternative and new blades are more than five times the cost of reworked blades.

The FAA partially agrees. The FAA disagrees with revising the Estimated Costs table in this final rule because the FAA predicts that most operators will choose the most cost-effective option of replacement with reworked blades. However, the FAA agrees that the cost of a full set of new blades should be mentioned in the Costs of Compliance section of this final rule because replacement with new blades is an acceptable option for compliance with this AD. Therefore, the FAA has revised the Costs of Compliance section of this final rule to include this estimate.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA either provide the factual basis for its Regulatory Flexibility Act (RFA) certification that the AD will not have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis and solicit comment. The commenter stated that the FAA should disclose how many small U.S. carriers operate the affected engines, projected per-entity compliance costs (including labor and parts), and downtime or scheduling impacts caused by the proposed AD.

The FAA has considered the AD’s impact on small entities and provides the following factual basis for its RFA certification.

The Regulatory Flexibility Act of 1980, Public Law 96-354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Small Entities to Which This AD Applies

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines “small business” to have the same meaning as “small business concern” under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define “small business” by issuing regulations.

The SBA has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS). These size standards generally define small businesses based on the number of employees or annual receipts. The following table shows the SBA size standards for all industries with at least 1 impacted entity. Note that the SBA definition of a small

business applies to the parent company and all affiliates as a single entity.

SMALL BUSINESS SIZE STANDARDS

NAICS code	Description	Size standard
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing	1,250 employees.
481111	Scheduled Passenger Air Transportation	1,500 employees.
532411	Commercial Air Transportation Equipment Rental and Leasing	\$47,000,000.

To identify small entities, the FAA first identified the primary NAICS of the entity or parent company, and then used

data from different sources (e.g., company annual reports, Bureau of Transportation Statistics) to determine

whether the entity meets the applicable size standard. The following table provides a summary of the results.

ESTIMATED NUMBER OF SMALL ENTITIES

Category	Number of entities	Engines	Number of small entities	Percent small entities
Aircraft Manufacturing	1	6	0	0
Other Aircraft Parts and Auxiliary Equipment Manufacturing	2	4	2	100
Scheduled Passenger Air Transportation	8	1,398	1	13
Commercial Air Transportation Equipment Rental and Leasing	12	54	5	42
Total	23	1,462	8	35

Projected Reporting, Recordkeeping, and Other Compliance Requirements

The FAA estimates affected entities will incur a cost of \$30,085 to replace

a full set of 3rd stage HPC rotor blades with reworked blades. If the blades are unserviceable and cannot be reworked, the cost of a full set of new blades is

estimated to be \$225,000. The following table provides the estimated low-case cost and high-case cost by each NAICS industry.

AVERAGE COST OF COMPLIANCE PER SMALL ENTITY

Category	Annual revenue	Low-case cost		High-case cost	
		Average cost	Percent of revenue	Average cost	Percent of revenue
Other Aircraft Parts and Auxiliary Equipment Manufacturing	\$2,750,000	\$60,170	2.2	\$450,000	16.4
Scheduled Passenger Air Transportation	246,300,000	481,360	0.2	3,600,000	1.5
Commercial Air Transportation Equipment Rental and Leasing	5,400,000	132,374	2.5	990,000	18.3

Significant Alternatives Considered

The FAA evaluated the alternative of not promulgating this AD but ultimately deemed that this alternative would create a significant safety hazard. The FAA is issuing this AD to address the unsafe condition for certain IAE AG Model V2522-A5, V2524-A5, V2525-D5, V2527-A5, V2527E-A5, V2527M-A5, V2528-D5, V2530-A5, V2531-E5, and V2533-A5 engines, ensuring a level of safety that the alternative of no action could not provide.

Request To Provide Additional Cost Information

The Citizens Rulemaking Alliance requested that the FAA provide an explicit Unfunded Mandates Reform Act (UMRA) determination and a more complete cost analysis. The commenter requested that the FAA provide the number of engines affected, inspection

intervals, labor assumptions, expected finding rates, parts costs if findings occur, and the on-year aggregation method. Further, if the revised calculations approach or exceed the \$100 million threshold under reasonable assumptions, the FAA should treat the action accordingly or separate non-urgent elements for standard rulemaking.

The FAA notes that in the preamble of the proposed AD, the FAA certified that this regulation is not a “significant regulatory action” under Executive Order 12866 and will not have an annual effect on the economy of \$100 million or more. Further, in the Costs of Compliance section of the NPRM, the FAA disclosed the number of affected engines on the U.S. registry and the number of work hours per affected engine to estimate the cost of the AD on all U.S. operators. The FAA also

disclosed an estimated parts cost. Additionally, the FAA considered the impact that this AD will have on affected operators and determined this AD will not trigger any downtime costs or scheduling disruptions because the requirements of this AD can be performed during regularly scheduled maintenance. However, as previously discussed, the FAA has revised this final rule to include the cost of a full set of new blades. Since the FAA has assessed and disclosed the total known costs of the AD requirements in the Costs of Compliance section of the proposed AD with the addition of the replacement cost using a full set of new blades in this final rule, and because the commenter did not provide additional cost data for the FAA to consider in its cost analysis, it is not necessary to provide additional information in the

AD docket. The FAA did not change this AD as a result of this comment.

Request To Revise Compliance Language

United Airlines requested that the FAA clarify the timeline for required actions by revising paragraph (g) of the proposed AD to state, “For any engine inducted into a shop visit after the effective date of this AD where 3rd stage rotor blade is exposed, replace the full set of 3rd stage HPC rotor blades with parts eligible for installation.” United Airlines noted that the exact exposure date can be difficult to track for engines inducted for a shop visit prior to the AD effective date, and revising the language would allow for easier tracking of when the AD would apply to a specific engine.

The FAA agrees to revise paragraph (g) of this AD because 3rd stage HPC rotor blade replacement can only be performed at a shop visit and it is not the FAA’s intent to require engines that were inducted into an engine shop visit prior to the effective date of this AD to comply with the AD. The FAA has also

revised paragraph (h) of this AD by adding paragraph (h)(3) to include a definition for “engine shop visit.”

Request for Alternative Method of Compliance Due to Parts Shortage

Lufthansa Technik requested that the FAA revise the proposed AD to allow for repetitive inspections of 3rd stage HPC rotor blades as an alternative method of compliance for the required blade replacement. Lufthansa Technik stated that a shortage of parts eligible for installation is expected due to limited rework options.

The FAA disagrees with the request. The FAA has received assurance from the parts original equipment manufacturer (OEM) that no parts shortages are expected due to limited rework options, and new hardware production has been increased to meet current demand. The OEM also informed the FAA that there are no inspections currently available for the 3rd stage HPC rotor blades to mitigate this issue. Therefore, the FAA will not mandate any repetitive inspections of the affected 3rd stage HPC rotor blades

as an alternative to the blade replacements. If parts may not be available in a timely manner, paragraph (i)(1) of this AD allows operators to request approval of an alternative method of compliance to extend the compliance time, based on a showing that the extension will not adversely affect safety. The FAA did not change this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM.

Costs of Compliance

The FAA estimates that this AD affects 1,462 engines installed on aircraft of U.S. registry.¹ The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost *	Parts cost	Cost per product	Cost on U.S. operators
Replace full set of 3rd stage HPC rotor blades with reworked blades	1 work-hour × \$85 per hour = \$85.	\$30,000	\$30,085	\$43,984,270

* The FAA estimated operators will incur \$85 in costs per labor hour, which is the weighted average fiscal year (FY) 2026 fully loaded wage of an aircraft mechanic (\$69.85) working 60% of the labor hours and a general and operations manager (\$108.15) working 40% of the labor hours. The FAA estimated these wages by taking the average of the FY 2024 Bureau of Labor Statistics (BLS) air transportation industry average wage for aircraft mechanics and general and operations managers (See: Occupational Employment and Wage Statistics Query System, BLS (May 2024), data.bls.gov/oes/); multiplying each wage by a fringe benefit factor of 1.42 (See: Employer Cost for Employee Compensation—December 2024, BLS (2024), bls.gov/news.release/archives/ecec_03142025.pdf); and adjusting these 2024 wages to 2026 dollars using an implicit Gross Domestic Product (GDP) Price Deflator of 2.8% (See: Gross Domestic Product: Implicit Price Deflator, FRED (2026) fred.stlouisfed.org/series/GDPDEF).

Although this AD provides two options for replacement, with new or reworked blades, the FAA predicts most operators will choose to replace with reworked blades, which is the most cost-effective option. If the blades are unserviceable and cannot be reworked, the cost of a full set of new blades is estimated to be \$225,000.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in

Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government.
For the reasons discussed above, I certify that this AD:
(1) Is not a “significant regulatory action” under Executive Order 12866; and
(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

¹ The affected population may be smaller than indicated as some operators might already have

accomplished IAE AG SB V2500–ENG–72–0716, dated October 4, 2024.

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2026–17–03 International Aero Engines

AG: Amendment 39–23446; Docket No. FAA–2025–2555; Project Identifier AD–2025–00433–E.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines AG (IAE AG) Model V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 engines with a 3rd stage high-pressure compressor (HPC) rotor blade having part number (P/N) 6A8353 or P/N 6A8688 installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by multiple reports of failed 3rd stage HPC rotor blades that resulted in engine fires, unplanned engine removals, aborted takeoffs, and in-flight shutdowns (IFSD). The FAA is issuing this AD to prevent failure of the 3rd stage HPC rotor blades. The unsafe condition, if not addressed, could result in engine fire, reduced control of the airplane, and engine IFSD.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

At the next engine shop visit after the effective date of this AD where the 3rd stage HPC rotor is exposed, replace the full set of 3rd stage HPC rotor blades with parts eligible for installation.

(h) Definitions

(1) For the purpose of this AD, a “part eligible for installation” is:

(i) A 3rd stage HPC rotor blade having P/N 6C8368, 6C8403, or later approved P/N; or

(ii) A 3rd stage HPC rotor blade modified to P/N 6A8353–001 or P/N 6A8688–001.

(2) For the purpose of this AD, a “3rd stage HPC rotor blade exposure” is when any 3rd stage HPC rotor blade is removed from the HPC stage 3 to 8 drum.

(3) For the purpose of this AD, an “engine shop visit” is the induction of an engine into the shop for maintenance.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7655; email: carol.nguyen@faa.gov.

(k) Material Incorporated by Reference

None.

Issued on August 17, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–16954 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 51

[Docket No. FR–6581–C–02]

RIN 2506–AC63

Revising HUD’s Noise Abatement and Control Regulations; Correcting Amendment

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Correcting amendment.

SUMMARY: On June 12, 2026, HUD published a final rule revising its noise abatement and control regulations. Due to an amendatory instruction drafting error, codified text of was not revised as HUD intended and continues to reference the Assistant Secretary for Community Planning and Development. This document corrects that text to conform to HUD’s intent as described in the preamble to the final rule.

DATES: Effective August 20, 2026.

FOR FURTHER INFORMATION CONTACT:

Peter Huber, Deputy Director, Office of Affordable Housing Programs, Office of Community Planning and Development,

U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, Room 7282; telephone number (202) 402–3941 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION: On June 12, 2026, HUD published a final rule (91 FR 35624) revising its noise abatement and control regulations at 24 CFR part 51. As explained in the preamble, HUD intended to amend § 51.104(a)(2) and (b)(2) “to allow for noise attenuation measures in unacceptable noise zones, projects in unacceptable noise zones, and EIS waivers for projects in unacceptable noise zones to be approved by the Assistant Secretary for the relevant program office overseeing a HUD-assisted project” (91 FR 35625).

Due to an amendatory instruction drafting error, the instruction for § 51.104(b)(2) did not effectuate this intent. Instead of removing the reference to the “Assistant Secretary for Community Planning and Development” from § 51.104(a)(2) and (b)(2), the instructions removed that reference only from § 51.104(a)(2) (91 FR 35626). As a result, the codified text of § 51.104(b)(2) continues to require that projects in or partially in an unacceptable noise zone be submitted to the Assistant Secretary for Community Planning and Development (or the Certifying Officer for projects subject to part 58) for approval and that only the Assistant Secretary for Community Planning and Development (or the Certifying Officer) may waive the requirement for an environmental impact statement for such projects. This correcting amendment revises § 51.104(b)(2) to replace the reference to the Assistant Secretary for Community Planning and Development with “Program Assistant Secretary or their designee,” consistent with the revision made to § 51.104(a)(2).

List of Subjects in 24 CFR Part 51

Airports, Hazardous substances, Housing standards, Noise control.

Accordingly, 24 CFR part 51 is corrected by making the following correcting amendments:

PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

§ 51.104 [Amended]

■ 2. In § 51.104(b)(2), remove the words “Assistant Secretary for Community Planning and Development” and add, in their place, the words “Program Assistant Secretary or their designee”.

Ronald Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–16967 Filed 8–19–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–1086]

RIN 1625–AA08

Special Local Regulation; North East, North East, MD

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters of the North East River, near North East, MD. This action is necessary to provide for the safety of life on these navigable waters during a power boat racing event on September 12, 2026 (Rain date: September 13, 2026). This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port Sector Maryland-National Capital Region or their designated representative.

DATES: This rule is effective from 8 a.m. on September 12, 2026, through 6 p.m. on September 13, 2026. It will only be subject to enforcement, however, from 10 a.m. to 5 p.m. on each of those two days.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–1086.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Zachary Rudy, Sector Maryland NCR Waterways Management Division, U.S. Coast Guard; telephone

410–576–2693, or email Zachary.S.Rudy@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Maryland-National Capital Region
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
SLR Special Local Regulation
U.S.C. United States Code

II. Background and Authority

The Coast Guard received a request under 33 CFR 100.15 from the Offshore Powerboat Racing Club LLC for a Marine Event Permit to host “Thunder on the North East,” a power boat race. The event will be held from 9 a.m. to 5 p.m. on September 12, 2026 (Rain date: September 13, 2026), in and around North East, MD. The power boat race will be competing on a designated, marked course.

The Captain of the Port, Sector Maryland-National Capital Region (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the power boat race, such as the risk of collisions, would be a safety concern for anyone intending to participate in this event and for vessels that operate within the specified waters of the North East River. The purpose of this rule is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM, consider and respond to comments, and publish a final rule by September 12, 2026, to protect personnel, vessels, and the marine environment. For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a temporary SLR which will be subject to enforcement from 8 a.m. through 7 p.m. on September 12, 2026 and from 8 a.m. through 7 p.m. on September 13, 2026. The SLR will cover certain waters of the North East river, near North East, Maryland. The coordinates of these waters are provided in the rule text, at

the end of this document. No vessel or person other than those that are registered with the host as participants will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act’s flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, at

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

- 2. Add § 100.T599–1060 to read as follows:

§ 100.T599–1060 Special Local Regulation; North East River, North East, MD.

(a) *Location.* This special local regulation applies to the following regulated area: All waters of Hambrooks Bay, from surface to bottom, encompassed by a line connecting the following coordinates: Commencing at the shoreline at Long Wharf Park, Cambridge, MD, at position latitude 38°34′30″ N, longitude 076°04′16″ W; thence east to latitude 38°34′20″ N, longitude 076°03′46″ W; thence northeast across the Choptank River along the Senator Frederick C. Malkus,

Jr. (US–50) Memorial Bridge, at mile 15.5, to latitude 38°35′30″ N, longitude 076°02′52″ W; thence west along the shoreline to latitude 38°35′38″ N, longitude 076°03′09″ W; thence north and west along the shoreline to latitude 38°36′42″ N, longitude 076°04′15″ W; thence southwest across the Choptank River to latitude 38°35′31″ N, longitude 076°04′57″ W; thence west along the Hambrooks Bay breakwall to latitude 38°35′33″ N, longitude 076°05′17″ W; thence south and east along the shoreline to and terminating at the point of origin. These coordinates are based on North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Maryland National Capital Region (COTP) in the enforcement of the regulated area. *Non-participant* means any person or vessel not registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (410) 576–2693. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period[s].* This section will be enforced from 10 a.m. to 5 p.m. on September 12, 2026, and from 10 a.m. through 5 p.m. on September 13, 2026.

Date: August 17, 2026.

Patrick C. Burkett,

Capt, U.S. Coast Guard, Captain of the Port Sector Maryland NCR.

[FR Doc. 2026–17007 Filed 8–19–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED–2026–OESE–1783]

Final Waiver and Extension of the Project Period With Funding for Arts in Education National Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (Department).

ACTION: Final waiver and extension of project period with funding.

SUMMARY: The Secretary waives the requirements in the Education Department General Administrative Regulations that generally prohibit extensions involving the obligation of additional Federal funds. The waiver and extension enables one project under Assistance Listing Number (ALN) 84.351A to receive funding for an additional period, not to exceed September 30, 2027.

DATES: This waiver and extension of the project period is effective August 20, 2026.

FOR FURTHER INFORMATION CONTACT: Orman Feres. Telephone: 202–453–6921. Email:

assistanceforartseducation@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2026, the Department published a notice in the **Federal Register** (91 FR 31682) proposing a waiver and extension of the project period with funding to enable one project under ALN 84.351A to receive continuation funding for an additional 12-month period, not to exceed September 30, 2027. The waiver would allow the Department to issue a continuation award in FY 2026 to the currently funded ALN 84.351A Arts in Education National Program (AENP) project at an amount consistent with the amount awarded in FY 2025 extension.

There are no differences between the notice of proposed waiver and extension of the project period with funding and this notice of final waiver and extension of the project period with funding, as discussed in the *Analysis of Comments and Changes* section of this document.

Public Comment

In response to our invitation in the notice of proposed waiver and extension of the project period with funding, two parties submitted a comment.

Generally, we do not address technical and other minor changes or suggested changes. The law does not authorize us to make such changes under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed waiver and extension with funding.

Analysis of Comments and Changes

An analysis of the comments to the proposed waiver and extension follows.

Comments: Two commenters submitted comments in support of the extension of funding, stating the funding is necessary to serve children and youth, specifically those with disabilities or from low-income families.

One of the commenters expressed that the final waiver should better explain why “bridge-funding” for FY 2026 is necessary, how the grantee’s current project has performed, what alternatives to bridge-funding were considered, and how the Department plans to ensure a fair and unbiased competition in 2027.

Discussion: We appreciate the support for the funding extension for AENP. We agree that the funding will continue to assist children and youth, particularly those with disabilities or from low-income families. All grantees are monitored through a comprehensive review of their progress and compliance, and program officers evaluate whether grantees are meeting approved milestones and making substantial progress toward both program level and project-specific performance measures. A commenter described this waiver as “bridge-funding,” but that characterization does not accurately reflect the proposed waiver and extension. The purpose of this waiver and extension is to provide a continuation award in FY 2026 for the currently funded AENP project, at an amount consistent with the FY 2025 extension.

The Department considered alternatives, such as holding a new competition, but ultimately determined that, given available resources and needing ample time for planning a competition, the agency could meet the congressional directive by extending the grant.

It is important to note that the Education Department General Administrative Regulations and other relevant grant regulations and statutory authorities govern how we conduct grant competitions and award new grants. The Department will continue to use these authorities in FY 2027 to ensure our commitment to conducting fair and unbiased grant competitions.

Changes: None.

Final Waiver and Extension of the Project Period With Funding

The Department believes that it is in the public interest to extend the AENP program in lieu of running a new competition in FY 2026.

Extending the project end dates of the ANEP grant for one year allows for efficient continuity of arts services. Pending FY 2027 appropriations, there may be new competitions for eligible applicants.

For these reasons, the Department waives the requirements in 34 CFR 75.261(b)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver allows the Department to issue a continuation award in FY 2026 to the currently funded ALN 84.351A AENP project at an amount consistent with the amount awarded in the FY 2025 extension.

Any activities carried out during the year of this continuation award must be consistent with, or a logical extension of, the scope, goals, and objectives of the grantee’s application as approved in the FY 2022 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a substantial economic impact on a substantial number of small entities. The extension of the existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision. The only entity that is affected by the waiver and extension of the project period is the one ALN 84.351A grantee.

Paperwork Reduction Act of 1995

This notice of final waiver and extension of the project period with funding does not contain any information collection requirements.

Intergovernmental Review

This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3

file, braille, large print, audiotape, or compact disc, or other accessible format.

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Authority: 20 U.S.C. 1221e–3 and 3474.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2026–17006 Filed 8–19–26; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2025–3821; FRL–13144–02–R9]

Air Plan Approval; Arizona; Attainment Plan for the Hayden SO₂ Nonattainment Area for the 1971 and 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of revisions to the Arizona state implementation plan (SIP) for attaining the 1971 and 2010 sulfur dioxide (SO₂) national ambient air quality standards (NAAQS or “standards”) in the Hayden SO₂ nonattainment area. These SIP revisions, collectively referred to as the “Hayden SO₂ Plan” or “Plan,” include Arizona’s attainment demonstration and other elements required under Clean Air Act (CAA or “Act”) sections 110, 172, 191, and 192. In addition to an attainment demonstration, the revisions address the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures

and reasonably available control technology (RACT/RACM), base-year and projection-year emissions inventories, nonattainment new source review, emissions limitations necessary to provide for attainment, and contingency measures. The EPA is approving the SIP revisions as meeting the CAA requirements. This action is being taken under the CAA.

DATES: This rule is effective September 21, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-3821. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 972-3877; email address: graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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- II. Public Comments and EPA Responses
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- V. Statutory and Executive Order Reviews

I. Background

The EPA first established primary SO₂ standards in 1971.¹ On March 3, 1978, the EPA designated Pinal County, Arizona as a primary SO₂ nonattainment area based on monitored violations of the primary SO₂ NAAQS in the county between 1975 and 1977.² At the request of the Arizona Department of Environmental Quality (ADEQ), the

nonattainment area was subsequently reduced to nine townships in and around Hayden, Arizona.³

On June 22, 2010, the EPA published in the **Federal Register** a strengthened, primary 1-hour SO₂ NAAQS, establishing a new standard at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO₂.⁴ The EPA provided that the 24-hour and annual standards established in 1971 were to remain in place for those areas designated nonattainment for the 2010 SO₂ NAAQS until such time that the State submits, and the EPA approves, an implementation plan providing for attainment of the 2010 SO₂ NAAQS.⁵

The EPA designated the Hayden, Arizona area nonattainment for the 2010 SO₂ NAAQS effective October 4, 2013.⁶ The dominant source of SO₂ emissions in the Hayden SO₂ nonattainment area is the Hayden copper smelter, owned and operated by ASARCO LLC (“Asarco”).⁷ The final area designation triggered a requirement for Arizona to submit by April 4, 2015 (within 18 months per CAA section 191(a)), a SIP revision with an attainment plan for how the Hayden SO₂ nonattainment area would attain the 2010 SO₂ NAAQS as expeditiously as practicable, but no later than October 4, 2018, per CAA section 192(a), and in accordance with CAA sections 110(a), 172(c), and 191–192.⁸

ADEQ submitted a SIP revision on March 9, 2017, titled “Arizona State Implementation Plan Revision: Hayden Sulfur Dioxide Nonattainment Area for the 2010 SO₂ NAAQS” (“2017 Hayden SO₂ Plan”). The emission limits that were intended to provide for attainment of the 2010 SO₂ NAAQS for the Hayden area were codified in the Arizona Administrative Code (AAC), Title 18, Chapter 2, Article 13, section R18–2–B1302, “Limits on SO₂ Emissions from the Hayden Smelter” (“Rule B1302”).

³ 44 FR 21261 (April 10, 1979). The nonattainment area is composed of the following townships in southern Gila County and northeastern Pinal County: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R14E; T5S, R15E; T5S, R16E; T6S, R14E; T6S, R15E; and T6S, R16E. The following townships were designated “cannot be classified:” T4S, R13E; T4S, R17E; T5S, R13E; T5S, R17E; T6S, R13E; and T6S, R17E.

⁴ On June 2, 2010, the EPA Administrator signed the final rule titled, “Primary National Ambient Air Quality Standard for Sulfur Dioxide,” 75 FR 35520 (June 22, 2010), codified at 40 CFR 50.17.

⁵ See 40 CFR 50.4(e). 75 FR 35520 at 75 FR 35581 (June 22, 2010).

⁶ 78 FR 47191 (August 5, 2013), codified at 40 CFR part 81, subpart C.

⁷ ASARCO LLC was organized in 1899 as the American Smelting And Refining Company.

⁸ 78 FR 47191 at 78 FR 47193 (August 5, 2013).

ADEQ submitted Rule B1302 to the EPA on April 6, 2017.⁹

On November 5, 2020, the EPA finalized a limited approval and limited disapproval of Arizona Rule B1302,¹⁰ and on November 10, 2020, the EPA finalized a partial approval and partial disapproval of the 2017 Hayden SO₂ Plan.¹¹ The final limited disapproval of Rule B1302 and partial disapproval of the 2017 Hayden SO₂ Plan became effective on December 7, 2020, and December 10, 2020, respectively, and initiated deadlines under CAA section 179(a) for the imposition of new source review offset and highway funding sanctions unless the State had made the necessary complete submittal and the EPA approved the submittal as meeting applicable requirements prior to those deadlines.¹²

On January 31, 2022, the EPA determined that the Hayden SO₂ nonattainment area failed to attain the 2010 1-hour primary SO₂ NAAQS by the October 4, 2018 applicable attainment date, which triggered a requirement under CAA section 179(d) for Arizona to submit a revised SIP by January 31, 2023, that provides for expeditious attainment of the 2010 SO₂ NAAQS in the Hayden SO₂ nonattainment area by January 31, 2027.¹³

On October 3, 2023, Arizona submitted the “Final SIP Revision: 2023 Hayden Sulfur Dioxide Nonattainment Area for the 1971 and 2010 SO₂ NAAQS” (“2023 Hayden SO₂ Plan”) to the EPA as a revision to the Arizona SIP.¹⁴ ADEQ’s letter adopting and

⁹ Letter dated March 8, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: “Submittal of the State Implementation Plan Revision, Sulfur Dioxide National Ambient Air Quality Standards, Hayden Nonattainment Area,” (submitted electronically on March 9, 2017); and letter dated April 6, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: “RE: Submittal of the Final Rules for the State Implementation Plans for Hayden Sulfur Dioxide Nonattainment Area, Hayden Lead Nonattainment Area, and Miami Sulfur Dioxide Nonattainment Area,” (submitted electronically on April 6, 2017).

¹⁰ 85 FR 70483 (November 5, 2020).

¹¹ 85 FR 71547 (November 10, 2020). As part of our November 10, 2020 final action, the EPA approved the emissions inventory element of the plan and affirmed that the State had met the new source review requirements for the area.

¹² On June 7, 2022, offset sanctions were imposed in the Hayden SO₂ nonattainment area, and on December 7, 2022, highway sanctions were imposed in the area.

¹³ 87 FR 4805 (January 31, 2022).

¹⁴ Letter dated October 3, 2023, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region 9, Subject: “RE: Submittal of the Arizona Department of Environmental Quality’s SIP revision: 2023 Hayden Sulfur Dioxide

¹ 36 FR 8186 (April 30, 1971). See 40 CFR 50.4.

² 43 FR 8962 (March 3, 1978).

submitting the 2023 Hayden SO₂ Plan for inclusion in the Arizona SIP clarifies that the SIP revision is intended to satisfy the CAA requirements for the Hayden SO₂ planning area for both the 1971 and 2010 SO₂ NAAQS.¹⁵ The October 3, 2023 submittal became complete by operation of law on April 3, 2024. On May 2, 2024, the EPA issued a completeness letter, determining that Arizona's October 3, 2023 submittal includes all SIP elements required as a result of the January 31, 2022 finding of failure to attain and that the submittal meets the minimum completeness criteria in 40 CFR part 51, appendix V.¹⁶

On December 8, 2025, ADEQ submitted for parallel processing the proposed "SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO₂ SIP" as a supplement to the 2023 Hayden SO₂ Plan ("Hayden SO₂ Supplement").¹⁷ In addition to addressing attainment planning requirements, the Hayden SO₂ Supplement included revisions to Rule B1302 and AAC Title 18, Chapter 2, Appendix 14, "Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter" ("Appendix 14") that establish certain enforceable control requirements that are relied upon in the attainment demonstration. These rule revisions had been adopted under State law;¹⁸ however, ADEQ noted that the State was requesting parallel processing of these submissions to help facilitate timely EPA action on the 2023 Hayden SO₂ Plan, given the additional administrative steps required before

codification of the rule revisions in the AAC.

In addition to the 2023 Hayden SO₂ Plan and Hayden SO₂ Supplement, ADEQ previously submitted amendments to AAC Title 18, Chapter 2, Article 13, section R18–2–715, "Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements" ("Rule 715") and section R18–2–715.01, "Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring" ("Rule 715.01") on April 6, 2017.¹⁹ These amendments sunset Rule 715 and 715.01 requirements upon the approval and effective date of Rule B1302. Further details can be found in the technical support document titled "Technical Support Document for Rule Revisions in the Hayden SO₂ Supplement to the 2023 Hayden SO₂ Plan" included in the docket for the proposed action.²⁰ On July 17, 2017, the EPA issued a completeness letter for Rules 715 and 715.01, finding that they fulfill the completeness criteria in 40 CFR part 51, appendix V.²¹

On March 4, 2026, the EPA proposed to approve the 2023 Hayden SO₂ Plan, Hayden SO₂ Supplement, and Rules 715 and 715.01, collectively referred to herein as the "Hayden SO₂ Plan."²² For details regarding the EPA's reasons for proposing to approve the Hayden SO₂ Plan please see the March 4, 2026 proposed action.²³

On June 5, 2026, Arizona submitted the final version of the Hayden SO₂ Supplement to the EPA as a revision to the Arizona SIP.²⁴ We have reviewed this submittal and have determined that it includes the final codified versions of Rule B1302, Appendix 14, Rule 715, and Rule 715.01; and an updated completeness evaluation of the

submittal. It does not otherwise differ from the version submitted for parallel processing on December 8, 2025, that we evaluated for our proposed approval.

Based on our review, we find that the June 5, 2026 submittal fulfills the SIP completeness criteria of 40 CFR part 51, appendix V. The SIP submission also includes evidence that adequate public notice was given and that an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102. Specifically, ADEQ provided public notice and opportunity for public comment prior to its October 14, 2025 public hearing on and adoption of the Hayden SO₂ Supplement.²⁵ The SIP submission includes proof of publication notices for the public hearing and includes copies of the written and oral comments received during the State's public review processes and ADEQ's responses thereto.²⁶ Therefore, we find that the Hayden SO₂ Supplement meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

II. Public Comments and EPA Responses

The public comment period for the proposed rulemaking opened on March 4, 2026,²⁷ the date of its publication in the **Federal Register**, and closed on April 3, 2026. During this period, the EPA received one comment submission from a member of the public.²⁸ Following the closure of the public comment period, the EPA received an additional comment submission from Asarco.²⁹ Both comment submissions are included in the docket for this action.

The comment from Asarco is supportive of our proposal to approve the Hayden SO₂ Plan and requests that the EPA finalize the proposed approval. Given the supportive nature of the

Nonattainment Area for the 1971 and 2010 SO₂ NAAQS," with enclosures (submitted electronically on October 3, 2023).

¹⁵ Id.

¹⁶ Letter dated May 2, 2024, from Matthew Lakin, Director, Air and Radiation Division, EPA Region IX, to Karen L. Peters, Cabinet Executive Officer, ADEQ, Subject: "Re: Completeness Finding for the State Implementation Plan (SIP) Submission for the Hayden Nonattainment Area for the 1971 and 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS)."

¹⁷ Letter dated December 5, 2025, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Michael Martucci, Acting Regional Administrator, U.S. EPA, Region 9 (submitted electronically on December 8, 2025).

¹⁸ On December 10, 2025, ADEQ submitted an updated version of the Hayden SO₂ Supplement, which noted in Exhibit A–II that "[o]n December 2, 2025, the Arizona Governor's Regulatory Review Council (Arizona GRRC) approved the Hayden Pb and SO₂ rulemaking. Accordingly, the Arizona GRRC-approved Notice of Final Rulemaking (NFRM) package was submitted to the Arizona Secretary of State (SOS) on December 9, 2025." The NFRM was published in the Arizona Administrative Register on January 2, 2026 (Vol. 32, Issue 1, p. 93) with an effective date of February 7, 2026. However, the codified version of the rules has not yet been published in the AAC.

¹⁹ Letter dated April 6, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: "RE: Submittal of the Final Rules for the State Implementation Plans for Hayden Sulfur Dioxide Nonattainment Area, Hayden Lead Nonattainment Area, and Miami Sulfur Dioxide Nonattainment Area," (submitted electronically on April 6, 2017).

²⁰ EPA Region IX, "Technical Support Document for Rule Revisions in the Hayden SO₂ Supplement to the 2023 Hayden SO₂ Plan," December 2025.

²¹ Letter dated July 17, 2017, from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, ADEQ.

²² 91 FR 10531 (March 4, 2026).

²³ Id.

²⁴ Letter dated June 2, 2026, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Michael Martucci, Acting Regional Administrator, U.S. EPA, Region 9, Subject: "RE: Final Submittal of SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO₂ SIP," with enclosures.

²⁵ Hayden SO₂ Supplement, Appendix B, Exhibit B–III, "Public Notice and Affidavit of Publication."

²⁶ Id., Appendix B, Exhibit B–VII, "Public Hearing Transcript," and Exhibit B–VIII, "Compilation of Comments and State Responses."

²⁷ 91 FR 10531 (March 4, 2026).

²⁸ Public comment submission received April 3, 2026, from Abdurhman Mektel Weli, to docket EPA–R09–OAR–2025–3821, Subject: "Comment on EPA–R09–OAR–2025–3821: Incomplete Benefit Valuation and Missing Environmental Justice Analysis in Hayden SO₂ Plan Approval."

²⁹ Letter dated April 2, 2026, from Alejandro Larrea, General Manager, Hayden Operations, Asarco, to Docket ID No. EPA–R09–OAR–2025–3821, Subject: "Re: Comments of ASARCO LLC—Hayden Operations, Air Plan Approval; Arizona; Attainment Plan for the Hayden SO₂ Nonattainment Area for the 1971 and 2010 Sulfur Dioxide National Ambient Air Quality Standards, Proposed Rule, 91 FR 10531 (Mar. 4, 2026)."

comment, it does not require a response. We respond to the comment from the member of the public in the remainder of this section.

The comment submission from a member of the public asserts that the EPA's proposed approval of the Hayden SO₂ Plan is incomplete because it lacks a quantitative benefit valuation and an environmental justice screening analysis, and requests that the EPA withhold final approval of Arizona's submission until such analyses have been completed. The commenter asserts that by not quantifying benefits, the proposal implicitly values them to be zero, which the commenter asserts is "inconsistent with economic best practices and prevents the public from judging whether the plan's costs are justified." The commenter also includes demographic information for the Hayden area, asserts that the Plan does not address whether costs and benefits are born equitably, asserts that "Executive Order 12898 requires agencies to address disproportionate effects on minority and low-income populations," and recommends tools for a costs and benefits analysis.

The EPA appreciates the commenter's interest in the implications of this proposed action. However, we disagree with the commenter's assertion that the Hayden SO₂ Plan, or our proposal to approve it, is incomplete without a quantitative benefit valuation and an environmental justice screening analysis.

First, we disagree with the assertion that by not quantifying the benefits of our action via a benefit analysis, we somehow imply that they are zero. The EPA's March 4, 2026 proposal discusses the expected air quality benefits resulting from Arizona's control strategy in the Hayden SO₂ Plan for attaining the SO₂ NAAQS in the Hayden area. The EPA's approval of the new controls and emissions limits in the Plan into the Arizona SIP will make them federally enforceable. Additionally, while Executive Order (E.O.) 12866 requires Federal agencies to conduct cost-benefit analyses for "significant" regulatory actions, E.O. 12866 applies only to rules with an economic impact of \$100 million or more or other material impacts. As discussed in our proposed rule, the EPA's approval of the Hayden SO₂ Plan is not a significant regulatory action under E.O. 12866 and does not require a cost-benefit analysis.³⁰ Thus, a benefit analysis is not required.

Second, regarding the commenter's assertion that our proposal is incomplete without an environmental

justice screening analysis pursuant to E.O. 12898, we note that President Trump revoked E.O. 12898 via E.O. 14173 on January 21, 2025. Thus, an environmental justice screening analysis is not required.

Finally, as discussed in section IX of the EPA's March 4, 2026 proposed rule,³¹ the EPA is required under the CAA to approve a State's SIP submission if it complies with the provisions of the Act and applicable Federal regulations.³² Thus, our role in reviewing SIP submissions is to approve State choices provided that they meet the criteria of the CAA. The CAA does not require a cost-benefit analysis or an environmental justice analysis. Accordingly, the EPA is not requiring such analyses as a condition for approving the Hayden SO₂ Plan.

III. Final Action

For the reasons discussed in our proposed action and herein, the EPA is finalizing our approval of the 2023 Hayden SO₂ Plan and the Hayden SO₂ Supplement, including amendments to Rule B1302 and Appendix 14. We find that these submittals provide for attainment of the 1971 and 2010 SO₂ NAAQS in the Hayden SO₂ nonattainment area and for meeting other nonattainment planning requirements. This SO₂ attainment plan includes Arizona's attainment demonstration for the Hayden SO₂ nonattainment area. In addition to an attainment demonstration, the State's Plan addresses the requirements for meeting RFP toward attainment of the NAAQS, RACM/RACT, base year and projection year emission inventories, nonattainment new source review (NSR), emission limitations necessary to provide for attainment, and contingency measures. In addition, the EPA is also finalizing approval of amendments to Rules 715 and 715.01, which ADEQ submitted to the EPA on April 6, 2017. We find that the Plan amendments, which would sunset the requirements in Rules 715 and 715.01, will not result in any relaxation of SIP requirements based on the revisions to Rule B1302.

The EPA is finalizing our determination that Arizona's Hayden SO₂ Plan meets the applicable requirements of section 172 of the CAA for the 1971 and 2010 SO₂ NAAQS. The EPA is finalizing our determination that the Hayden SO₂ Plan meets the emissions inventory requirements under CAA section 172(c)(3) and (4) and affirming that the State has met the NSR requirements for the Hayden SO₂

nonattainment area under CAA section 172(c)(5). We are also finalizing our determination that the Hayden SO₂ Plan meets the attainment demonstration, RACM/RACT, enforceable emission limitations, RFP, and contingency measure requirements of the CAA for the 1971 and 2010 SO₂ NAAQS.

As a result of this final approval of the Hayden SO₂ Plan, all sanctions triggered by our November 5, 2020 limited disapproval³³ and November 10, 2020 partial disapproval³⁴ actions are terminated on the effective date of this rulemaking. In addition, the Federal implementation plan (FIP) obligation triggered by the March 18, 2016 finding of failure to submit has been satisfied and the associated FIP obligation for the Hayden SO₂ nonattainment area under the consent decree in *Center for Biological Diversity et al. v. Regan*, No. 4:24-cv-01900 (N.D. Cal.), doc. 28, paragraphs 1.b and 2 is terminated. Lastly, when this final approval becomes effective, the 1971 SO₂ NAAQS will no longer apply to the Hayden SO₂ nonattainment area.³⁵

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of four Arizona Department of Environmental Quality rules: Rule R18-2-715, "Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements," revised on April 7, 2017, which regulates emissions of sulfur dioxide from copper smelters; Rule R18-2-715.01, "Standards of Performance for Existing Primary Copper Smelters, Compliance and Monitoring," revised on April 7, 2017, which establishes other implementing requirements related to sulfur dioxide emissions from copper smelters; Rule R18-2-B1302, "Limits on SO₂ Emissions from the Hayden Smelter," revised January 2, 2026, which regulates emissions of sulfur dioxide from the Hayden primary copper smelter; and Appendix 14, "Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter," revised January 2, 2026, which regulates the methodology for performing fugitive emission studies of sulfur dioxide. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are

³³ 85 FR 70483 (November 5, 2020).

³⁴ 85 FR 71547 (November 10, 2020).

³⁵ See 40 CFR 50.4(e).

³¹ Id.

³² 42 U.S.C. 7410(k); 40 CFR 52.02(a).

³⁰ 91 FR 10531 at 91 FR 10544 (March 4, 2026).

fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³⁶ The EPA has made, and will continue to make, these documents available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). Because this is a rule of particular applicability, the EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 10, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

- 2. Section 52.120 is amended by:
 - a. In table 2 in paragraph (c), revising the entries for “R18–2–715, section F, excluding (F)(2), and section G”, “R18–2–715.01”, “R18–2–B1302”, and “Appendix 14”; and
 - b. In table 1 in paragraph (e), adding the entries for “SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona’s 2023 SO₂ SIP, excluding Appendix A” and “Final SIP Revision: 2023 Hayden Sulfur Dioxide Nonattainment Area for the 1971 and 2010 SO₂ NAAQS, excluding Appendix A” after the entry for “SIP Revision: Hayden Lead Nonattainment Area, excluding Appendix C”.

The revisions and additions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

³⁶ 62 FR 27968 (May 22, 1997).

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Arizona Administrative Code				
*	*	*	*	*
Article 7 (Existing Stationary Source Performance Standards)				
R18–2–715, section F, excluding (F)(2), section G, and section I.	Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements.	April 7, 2017	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]; May 10, 2021, 86 FR 24726.	Submitted on April 6, 2017. EPA approved the rescission of sections (F)(2) and (H) on May 10, 2021.
R18–2–715.01	Standards of Performance for Existing Primary Copper Smelters, Compliance and Monitoring.	April 7, 2017	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on April 6, 2017.
*	*	*	*	*
Article 13 (State Implementation Plan Rules for Specific Locations)				
R18–2–B1302	Limits on SO ₂ from the Hayden Smelter.	February 7, 2026 ...	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 5, 2026.
Appendix 14	Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter.	February 7, 2026 ...	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 5, 2026.
*	*	*	*	*

* * * * *

(e) * * *

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or non-attainment area or title/subject	State submittal date	EPA approval date	Explanation
The State of Arizona Air Pollution Control Implementation Plan				
*	*	*	*	*
Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)				
SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO ₂ SIP, excluding Appendix A.	Hayden, AZ Sulfur Dioxide Nonattainment Area.	June 5, 2026	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Adopted by the Arizona Department of Environmental Quality and submitted to the EPA as an attachment to letter dated June 2, 2026.

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES—Continued

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or non-attainment area or title/subject	State submittal date	EPA approval date	Explanation
Final SIP Revision: 2023 Hayden Sulfur Dioxide Non-attainment Area for the 1971 and 2010 SO ₂ NAAQS, excluding Appendix A.	Hayden, AZ Sulfur Dioxide Nonattainment Area.	October 3, 2023	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Adopted by the Arizona Department of Environmental Quality and submitted to the EPA as an attachment to letter dated October 3, 2023.
*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

* * * * *

[FR Doc. 2026–16989 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2025–3625; FRL–13296–02–R4]

Air Plan Approval; SC; Department Name Change

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is approving a State Implementation Plan (SIP) revision submitted by the State of South Carolina on July 23, 2025. The revision updates references to reflect the restructuring of South Carolina Department of Health and Environmental Control (DHEC) to the South Carolina Department of Public Health and the South Carolina Department of Environmental Services (DES).

DATES: This rule is effective September 21, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2025–3625. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8773. Mr. Freund can also be reached via electronic mail at *freund.weston@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. This Action

The EPA is approving a SIP revision submitted by DES on July 23, 2025, amending Regulations 61–62.1, *Definitions and General Requirements*, Section I, *Definitions*; 61–62.3, *Air Pollution Episodes*; 61–62.4, *Hazardous Air Pollution Conditions*; 61–62.5, Standard No. 4, *Emissions from Process Industries*, Section VIII, *Other Manufacturing*; and 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*.¹ The revision updates references in these regulations from DHEC and the DHEC Board to reflect the newly created DES.

¹ The July 23, 2025, submission also contains changes to Regulation 61–62.1, Section II, *Permit Requirements and Regulations* 61–62.60, 62.63, 62.70, and 86.1. The EPA will act on the changes to Regulation 61–62.1, Section II in a separate SIP-related rulemaking. Regulations 61–62.60, 62.63, 62.70, and 86.1 are not part of the SIP; therefore, the EPA will not act on these changes.

The EPA is approving these changes because they are administrative in nature and therefore would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Clean Air Act (CAA or Act).²

II. Background

Through a notice of proposed rulemaking (NPRM), published on May 28, 2026 (91 FR 31686), the EPA proposed to approve the July 23, 2025, changes to Regulations 61–62.1, *Definitions and General Requirements*, Section I, *Definitions*; 61–62.3, *Air Pollution Episodes*; 61–62.4, *Hazardous Air Pollution Conditions*; 61–62.5, Standard No. 4, *Emissions from Process Industries*, Section VIII, *Other Manufacturing*; and 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*. The details of South Carolina's submission, as well as the EPA's rationale for approving these changes, are described in more detail in the May 28, 2026, NPRM. Comments on the May 28, 2026, NPRM were due on June 29, 2026. No comments were received on the NPRM, adverse or otherwise.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, the EPA is finalizing the incorporation by reference Regulation 61–62.1, Section I, *Definitions*, paragraphs (11), (20), and (25);³ Regulation 61–62.3, Section I, *Episode Criteria*, paragraph 1 and the preceding

² See CAA section 110(l).

³ The remaining portions of Regulation 61–62.1, Section I, retain the April 24, 2020, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).

unnumbered initial paragraph;⁴ Regulation 61–62.4, *Hazardous Air Pollution Conditions*, Section E;⁵ Regulation 61–62.5, Standard No. 4, Section VIII, *Other Manufacturing*, footnote to Table B;⁶ and Regulation 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*, Section 96.2, paragraph (q),⁷ all of which are state effective May 23, 2025, and revise these rules to update outdated references. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the state implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁸

IV. Final Action

The EPA is approving South Carolina's July 23, 2025, SIP revision consisting of administrative changes to references in Regulations 61–62.1, *Definition and General Requirements*, Section I; 61–62.3, *Air Pollution Episodes*; 61–62.4, *Hazardous Air Pollution Conditions*; 61–62.5, Standard 4, *Emissions from Process Industries*; and 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.⁹ Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely

approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not exempt under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

Because this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher

environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.¹⁰

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 12, 2026.

Kevin McOmber,

Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

- 2. In § 52.2120(c), amend the table by revising the following entries:

- a. “Section I” under “Regulation No. 62.1”;
- b. “Section I” under “Regulation No. 62.3”;
- c. “Regulation No. 62.4”
- d. “Section VIII” under “Regulation No. 62.5” in “Standard No. 4”; and
- e. “Regulation No. 62.96”.

The revisions read as follows:

§ 52.2120 Identification of plan.

* * * * *

¹⁰ See CAA section 307(b)(2).

⁴ The remaining portions of Regulation 61–62.3, Section I, retain the April 26, 2013, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).

⁵ The remaining portions of Regulation 61–62.4 retain the December 20, 1978, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).

⁶ The remaining portions of Regulation 61–62.5, Standard No. 4, Section VIII retain the June 24, 2016, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).

⁷ The remaining portions of Regulation 61–62.96 retain the January 25, 2019, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).

⁸ See 62 FR 27968 (May 22, 1997).

⁹ See 42 U.S.C. 7410(k); 40 CFR 52.02(a).

(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA APPROVED SOUTH CAROLINA LAWS AND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Regulation No. 62.1	Definitions and General Requirements.			
Section I	Definitions	4/24/2020	10/28/2021, 86 FR 59641.	Except for paragraphs (11), (20), and (25), approved on 8/20/2026, with a state effective date of 5/23/2025.
*	*	*	*	*
Regulation No. 62.3	Air Pollution Episodes.			
Section I	Episode Criteria	4/26/2013	8/21/2017, 82 FR 39541	Except for paragraph 1 and the preceding unnumbered initial paragraph, approved on 8/20/2026, with a state effective date of 5/23/2025.
*	*	*	*	*
Regulation No. 62.4	Hazardous Air Pollution Conditions.	12/20/1978	1/29/1980, 45 FR 6572	Except for Section E, approved on 8/20/2026, with a state effective date of 5/23/2025.
*	*	*	*	*
Regulation No. 62.5	Air Pollution Control Standards.			
*	*	*	*	*
Standard No. 4	Emissions From Process Industries.			
*	*	*	*	*
Section VIII	Other Manufacturing ...	6/24/2016	6/25/2018, 83 FR 29455	Except for the footnote to Table B, approved on 8/20/2026, with a state effective date of 5/23/2025.
*	*	*	*	*
Regulation No. 62.96	Nitrogen Oxides (NO _x) Budget Program.	1/25/2019	7/29/2020, 85 FR 45541	Except Section 96.2, paragraph (q), approved on 8/20/2026, with a state effective date of 5/23/2025.
*	*	*	*	*

* * * *

[FR Doc. 2026–16990 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R05–OAR–2025–0169; EPA–R05–OAR–2025–0170; EPA–R05–OAR–2025–0171; FRL–13164–02–R5]

Air Plan Approval; Wisconsin; Moderate Attainment Plan Elements for Wisconsin's 2015 Ozone Standard Areas**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is approving portions of Wisconsin's 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) Moderate nonattainment area State

Implementation Plan (SIP) submission for the Wisconsin portion of the Chicago, Illinois-Indiana-Wisconsin area (Kenosha County), the Milwaukee, Wisconsin area, and the Sheboygan County, Wisconsin area. The elements of the Moderate SIP submissions include the reasonable further progress (RFP) demonstration and the associated motor vehicle emissions budgets (Budgets) for 2023, the motor vehicle inspection and maintenance (I/M) program, and the nonattainment new source review (NNSR) program. The EPA is also approving the base year emissions inventory as satisfying previous Marginal area requirements for these areas. The EPA is finding adequate and approving the Budgets for these areas. The EPA proposed to approve this action on April 2, 2026, and received no adverse comments.

DATES: This final rule is effective on September 21, 2026.**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2025–0169; EPA–

R05–OAR–2025–0170; EPA–R05–OAR–2025–0171. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–6680, email address: leslie.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

Table of Contents

- I. Executive Summary and Background
- II. What action is the EPA taking?
- III. Statutory and Executive Order Reviews

I. Executive Summary and Background

On April 2, 2026,¹ the EPA proposed to approve several nonattainment plan elements, including a 2017 base year emissions inventory for volatile organic compounds (VOC) and oxides of nitrogen (NO_x), a 15% RFP plan with 2023 VOC and NO_x motor vehicle emissions budgets, an I/M program certification, and an NNSR certification. An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and the EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM) and will not be restated here. The public comment period for this proposed rule ended on May 4, 2026. The EPA received no comments on the proposal.

II. What action is the EPA taking?

The EPA is approving revisions to Wisconsin’s SIP pursuant to CAA section 110 and part D and EPA’s regulations because Wisconsin’s April 2, 2025, attainment plan submissions satisfy the base year emissions inventory, the RFP demonstration including associated motor vehicle emissions budgets, I/M, and NNSR requirements of the CAA for the Kenosha County, Milwaukee, and the Sheboygan County areas for the 2015 ozone NAAQS. The EPA is also finding adequate and approving the 2023 Budgets for the Kenosha County, Milwaukee, and the Sheboygan County areas included in this SIP submission.

III. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve State choices,

provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House

of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 7, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

- 2. In § 52.2570, the table in paragraph (e) is amended:

- a. Under the heading “Attainment Plans” by adding an entry for “Ozone NAAQS (2015)” before the entry for “SO₂ NAAQS (2010)”;
- b. Under the heading “Emissions Inventories” by adding an entry for “Ozone NAAQS (2015)” before the entry for “PM_{2.5} NAAQS (2006)”.

The additions read as follows:

§ 52.2570 Identification of plan.

* * * * *

(e) * * *

¹ April 2, 2026 (91 FR 16605)

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Attainment Plans				
Ozone NAAQS (2015) ...	Chicago, IL-IN-WI, Milwaukee, WI, and Sheboygan County, WI.	April 2, 2025	August 20, 2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	15% RFP plan with 2023 VOC and NO _x motor vehicle emissions budgets, I/M program certification, and NNSR certification for Kenosha (part), Milwaukee, Ozaukee, Racine (part), Washington (part), Waukesha (part), and Sheboygan (part) Counties.
*	*	*	*	*
Emissions Inventories				
Ozone NAAQS (2015) ...	Chicago, IL-IN-WI, Milwaukee, WI, and Sheboygan County, WI.	April 2, 2025	August 20, 2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	2017 base year emissions inventory for Kenosha (part), Milwaukee, Ozaukee, Racine (part), Washington (part), Waukesha (part), and Sheboygan (part) Counties.
*	*	*	*	*

[FR Doc. 2026–16986 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA–HQ–OPP–20–0548; FRL–13489–01–OCSPP]****Cypermethrin; Pesticide Tolerance(s)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes a tolerance action for residues of cypermethrin (CASRN 52315–07–8) in or on the food and feed commodity of cacao, dried bean. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), the National Confectioners Association submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodity.

DATES: This rule is effective on August 20, 2026. Objections and requests for hearings must be received on or before October 19, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2024–0548, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Charles Smith, Pesticide Registration Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2427; email address: smith.charles@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document might apply to them:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” FFDCA section 408(b)(2)(A)(ii) defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable

certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .”

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA–HQ–OPP–2024–0548 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 19, 2026.

EPA’s Administrative Law Judges Division (ALJD), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See “Order Urging Electronic Filing and Service,” dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA’s regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the ALJD electronically, a person should utilize the ALJD e-filing system at <https://yosemite.epa.gov/OA/EAB/EAB-ALJ/Upload.nsf>.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you

claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petitioned-For Tolerance

In the **Federal Register** of January 13, 2025 (90 FR 2661, 2663 (FRL–11682–11–OCSP)), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E9149) by the National Confectioners Association, 101 90th St. NW, Washington, DC 20007. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide cypermethrin, including its metabolites and degradates, in or on the raw agricultural commodity cacao, dried bean, at 0.02 ppm and associated processed commodities. That document referenced a summary of the petition that was prepared by the petitioner and included in the docket.

During the public comment period for the notice of filing, which closed on February 12, 2025, no comments were received.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for cypermethrin including exposure resulting from the tolerances established by this action. EPA’s assessment of exposures and risks associated with cypermethrin is summarized in this unit.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Cypermethrin is a racemic mixture of eight isomers. Zeta- and alpha-cypermethrin are enrichments of the more insecticidally-potent isomers (*e.g.*, alpha-S and cis-2-R isomers). Each isomeric mixture is considered to be a separate active ingredient; as a result, there are three isomeric mixtures and three active ingredients (collectively, the “cypermethrins”). The toxicological

database for the cypermethrins is complete for the establishment of a tolerance without U.S. registration. The cypermethrins are Type II pyrethroids that contain an alpha-cyano moiety. The adverse outcome pathway shared by pyrethroids involves the ability to interact with voltage-gated sodium channels in the central and peripheral nervous systems leading to changes in neuron firing and, ultimately, neurotoxicity. The database of experimental toxicology studies available for the cypermethrins is considered complete. While each active ingredient does not have its own complete database, studies have been bridged across the three isomeric mixtures and together are considered adequate for human health risk assessment. When evaluated together, the toxicity database for cypermethrin, zeta-cypermethrin, and alpha-cypermethrin can be used to characterize the overall suite of effects associated with cypermethrin exposure, including potential developmental and reproductive toxicity, immunotoxicity, and neurotoxicity.

As with other pyrethroids, metabolism data available for cypermethrin and alpha-cypermethrin in the rat show rapid absorption and clearance (M. Collantes, D425964, 12/21/2017). An *in vivo* dermal penetration study conducted in rats with alpha-cypermethrin provided the basis for refining the dermal assessment with the use of a dermal absorption factor of 13.4%. Though conducted with the alpha isomer, it is considered appropriate to use for the cypermethrin assessment. This study is considered more robust for risk assessment compared to use of the calculated value comparing oral and dermal studies used previously.

C. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe

exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks>.

A summary of the toxicological endpoints and PODs for cypermethrin used for human risk assessment can be found in the Cypermethrin Human Health Risk Assessment. (D. Dotson, TG00561548, 1/31/2025).

D. Exposure Assessment

A chronic dietary risk assessment is not required for the cypermethrins because repeated exposure does not result in a POD lower than that resulting from acute dietary exposure. Therefore, the acute dietary risk assessment is protective of chronic dietary risk. However, EPA performed a chronic dietary exposure assessment for use in the aggregate assessment, since there are residential exposures for the cypermethrins that need to be aggregated with background exposure from dietary sources. In the aggregate human health risk assessment, the chronic exposure estimates are combined with the appropriate residential exposure estimates to determine the aggregate risk estimates.

As a class of chemicals, the pyrethroids have low solubility in water and a high affinity to bind to soils. Given these physical/chemical properties, it is unlikely that oral exposure from drinking water will be a major pathway of exposure for the cypermethrins. The results of the dietary exposure assessments confirmed this expectation.

EPA estimated residues of the cypermethrins in drinking water from the use of zeta-cypermethrin and cypermethrin on cotton, and these estimated drinking water concentrations (EDWC) are considered appropriate for use in the current risk assessment.

EPA used the cotton surface water and groundwater concentrations calculated using the Surface Water Concentration Calculator and the Pesticide Root Zone Model for Groundwater. The EDWCs are very low, because of the cypermethrins' low water solubility and high affinity to bind to soils.

The recommended residential exposure for use in the adult aggregate assessment is inhalation handler exposure from applying cypermethrin with a sprinkler can to home gardens.

The recommended residential exposure for use in the children 1 to <2 years old aggregate assessment is dermal and incidental oral post-application exposure to pets treated with pet medallion/tag products formulated with cypermethrin.

In 2011, after establishing a common mechanism grouping for the pyrethroids and pyrethrins (the ability to interact with voltage-gated sodium channels leading to neurotoxicity), the Agency conducted a cumulative risk assessment (CRA) which is available at <https://www.regulations.gov>; EPA-HQ-OPP-2011-0746. In that document, the Agency concluded that cumulative exposures to pyrethroids (based on pesticidal uses registered at the time the assessment was conducted) did not present risks of concern. For information regarding EPA's efforts to evaluate the risk of exposure to this class of chemicals, refer to <https://www.epa.gov/ingredients-used-pesticide-products/pyrethrins-and-pyrethroids>. Since the 2011 CRA, for each new pyrethroid and pyrethrin use, the Agency has conducted a screen to evaluate any potential impacts on the CRA prior to those uses being granted.

The recommended tolerance for dried cocoa beans will not significantly impact the cumulative assessment because dried cocoa makes an insignificant contribution to dietary exposure, and dietary exposures make a minor contribution to total pyrethroid exposure relative to residential exposures in the 2011 cumulative risk assessment; furthermore, the proposed tolerance is not associated with any increase in residential or non-occupational exposure. Therefore, the results of the 2011 CRA are still valid, and there are no cumulative risks of concern for the pyrethroids/pyrethrins.

E. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision,

EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased quantitative or qualitative susceptibility noted in the developmental or reproduction studies for the cypermethrins. However, body weight changes were seen in pups in the developmental neurotoxicity study with zeta-cypermethrin in the absence of treatment-related effects in maternal animals, suggesting quantitative susceptibility. The degree of concern for the observed susceptibility is low because there is a clear study NOAEL. The PODs used in the risk assessment are protective of the observed susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

Previously, EPA retained a 3X FQPA SF (1X for pharmacodynamic (PD) and 3X for pharmacokinetic (PK) differences) for children <6 years old based on concerns for PK differences between adults and children. EPA has re-evaluated the need for an FQPA SF for human health risk assessments for pyrethroid pesticides based on a review of the available guideline and literature studies as well as data from the Council for the Advancement of Pyrethroid Human Risk Assessment program. Because no new information of suitable quality was available on the age-related PD properties of the pyrethroids, the PD contribution to the FQPA SF remains at 1X. Regarding PK, recent data including human physiologically-based pharmacokinetic models as well as *in vivo* and *in vitro* data on protein binding, enzyme ontogeny, and metabolic clearance, support the conclusion that the PK contribution to the FQPA SF can be reduced to 1X for all populations. (M. Collantes, D453647, 6/9/2020).

F. Aggregate Risk and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing dietary exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term aggregate risks are evaluated by comparing the estimated total food, water, and residential exposure to the appropriate points of departure to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to the cypermethrins are not of concern for the general U.S. population or any population subgroup.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that there is no chronic aggregate risk from exposure to the cypermethrins. Short-term aggregate risk is protective for long-term exposure.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Short-term aggregate risk from exposure to the cypermethrins results from exposure to residues in food, drinking water, and residential exposures. The chronic dietary exposure estimates served as background food and water exposure. The worst-case cypermethrin residential exposure scenario for adults resulted from applying cypermethrin with a sprinkler can to home gardens, and is not of concern. The adult dietary LOC is equal to 100, while the inhalation LOC is equal to 30. Therefore, the Aggregate Risk Index (ARI) approach was used to calculate aggregate exposure and risk for adults. An ARI ≥ 1 is not of concern. The adult aggregate risk estimate is an ARI of 4.5 and is not of concern. The worst-case residential exposures for children 1 to <2 years old, and is not of concern, resulted from dermal and incidental oral post-application exposure to pets treated with a pet medallion/tag. For children (1 to <2 years) the dermal and incidental oral LOC is 100. The short-term aggregate risk estimate is an MOE of 130 for children 1 to <2 years old and is not of concern. Based on pyrethroid toxicity, intermediate-term exposure is covered by short-term exposure.

4. *Aggregate cancer risk for U.S. population.* As the acute dietary exposure estimates are not of concern, the cancer risk is not of concern. EPA classified cypermethrin as a "Possible Human Carcinogen" and determined that a non-linear approach should be used for cancer assessment. This is considered protective for all chronic toxicity, including carcinogenicity, that could result from exposure to the cypermethrins because of increasing toxicity with increasing duration of exposure was not demonstrated.

5. *Determination of safety.* Based on the risk assessments and information described above, EPA concludes there is

a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to cypermethrin residues. More detailed information on this action can be found in the 2025 Human Health Risk Assessment at <https://www.regulations.gov> in docket ID EPA-HQ-OPP-20-0548.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate tolerance-enforcement methods are available for determining residues of the cypermethrins in plant (Method I) and livestock (Method II) commodities. Both methods are gas chromatographic methods with electron-capture detection and have undergone successful Agency petition method validations. Method I has a limit of detection (LOD) of 0.01 ppm, and Method II has LODs of 0.005 ppm in milk and 0.01 ppm in livestock tissues. These methods are not stereospecific; therefore, no distinction is made between residues of cypermethrin (all 8 stereoisomers), zeta-cypermethrin (enriched in 4 isomers) and alpha-cypermethrin (enriched in 2 isomers).

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

No Codex or Canadian MRLs are established for dried cacao bean or any of its processed commodities.

C. Effective and Expiration Date(s)

In general, a tolerance action is effective on the date of publication of the final rule in the **Federal Register**. For actions in the final rule that lower or revoke existing tolerances, EPA will set an expiration date for the existing tolerance of six months after the date of publication of the final rule in the

Federal Register, in order to allow a reasonable interval for producers in exporting members of the World Trade Organization's Sanitary and Phytosanitary Measures Agreement to adapt to the requirements.

D. Revisions to Petitioned-For Tolerances

EPA is establishing at 0.05 ppm instead of at the proposed level of 0.02 ppm to align with the established food handling establishment tolerance which applies to all commodities. In addition, EPA is establishing the tolerance according to the correct commodity definition of Cacao, dried bean.

V. Conclusion

Therefore, a tolerance is established for residues of cypermethrin (CASRN 52315-07-8) in or on the food and feed commodity of Cacao, dried bean.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/regulations-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or on the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.E.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22,

2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 12, 2026.

Charles Smith

Director, Registration Division, Office of Pesticide Programs.

For the reasons set forth in the preamble, 40 CFR chapter I is amended as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.418, add in alphabetical order an entry for "Cacao, dried bean" to table 1 to paragraph (a) to read as follows:

§ 180.418 Cypermethrin and isomers alpha-cypermethrin and zeta-cypermethrin; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	*
Cacao, dried bean ¹	0.05
* * * * *	*

¹ There are no U.S. registrations as of August 20, 2026.

* * * * *

[FR Doc. 2026–16973 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300**

[EPA–HQ–OLEM–2025–0182; EPA–HQ–OLEM–2025–1146; EPA–HQ–OLEM–2025–3819; EPA–HQ–OLEM–2026–0001; EPA–HQ–OLEM–2026–0002; EPA–HQ–OLEM–2026–0003; EPA–HQ–OLEM–2026–0004; EPA–HQ–OLEM–2026–0166; FRL–13154–02–OLEM]

Deletion From the National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of six sites and the partial deletion of two sites, from the Superfund National Priorities List (NPL). The NPL, created under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). In accordance with the NCP, sites may be deleted from the NPL where no further response is appropriate. The EPA and the applicable states, through their designated state agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: The document is effective August 20, 2026.

ADDRESSES:

Docket: EPA has established a docket for this action under the Docket ID Nos. included in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. All documents in the docket are listed on the <https://www.regulations.gov> website. The Final Close-Out Report (FCOR, for a full site deletion) or the Partial Deletion Justification (PDJ, for a partial site deletion) is the primary document which summarizes site information to support the deletion. It is typically written for a broad, non-technical audience and this document is included in the deletion docket for each of the sites in this rulemaking. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy

form. Docket materials are available through <https://www.regulations.gov> or at the corresponding Regional Records Centers. Locations, addresses, and phone numbers of the Regional Records Center follows.

- Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; telephone number: (212) 637–4308.

- Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303; telephone number: (404) 562–8637.

- Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Records Manager, Mail code SRC–7J, Metcalfe Federal Building, 7th Floor South, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886–4465.

- Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Lenexa, KS 66219; telephone number: (913) 551–7079.

- EPA Headquarters Docket Center Reading Room (deletion dockets for all States), William Jefferson Clinton (WJC) West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004; telephone number: (202) 566–1744.

EPA staff listed below in the **FOR FURTHER INFORMATION CONTACT** section may assist the public in answering inquiries about deleted sites, accessing deletion support documentation, and

determining whether there are additional physical deletion dockets available.

FOR FURTHER INFORMATION CONTACT:

- Grace Stern and Robert Keating, U.S. EPA Region 2 (NJ, NY, PR, VI), email address: stern.grace@epa.gov, telephone number: (212) 637–4341; email address: keating.robert@epa.gov, telephone number: (212) 637–4325.

- Alayna Famble, U.S. EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), email address: fbamble.alayna@epa.gov, telephone number: (404) 562–8768.

- Karen Cibulskis, U.S. EPA Region 5 (IL, IN, MI, MN, OH, WI), email address: cibulskis.karen@epa.gov, telephone number: (312) 886–1843.

- Laura Price and Peyton Witham, U.S. EPA Region 7 (IA, KS, MO, NE), email address: price.laura@epa.gov, telephone number: (913) 551–7130; email address: witham.peyton@epa.gov, telephone number: (816) 947–0470.

- Ashley Miller, Matt Spencer, and Jyl Lapachin, U.S. EPA Headquarters, email address: miller.ashley@epa.gov, telephone number: (202) 566–1084; email address: spencer.matthew@epa.gov, telephone number: (202) 566–1851; email address: lapachin.jyl@epa.gov, telephone number: (703) 304–8510.

SUPPLEMENTARY INFORMATION: The NPL, created under section 105 of CERCLA, as amended, is an appendix of the NCP. The NCP establishes the criteria that

EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. Partial deletion of sites is in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (November 1, 1995). The sites to be deleted or partially deleted are listed in table 1, including docket information containing reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete. The NCP permits activities to occur at a deleted site, or that media or parcel of a partially deleted site, including operation and maintenance of the remedy, monitoring, and five-year reviews. These activities for the site are entered in table 1 in this **SUPPLEMENTARY INFORMATION** section, if applicable, under Footnote such that; 1= site, or portion of the site, has continued operation and maintenance of the remedy, 2= site, or portion of the site, receives continued monitoring, and 3= site, or portion of the site, five-year reviews are conducted. As described in 40 CFR 300.425(e)(3) of the NCP, a site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

TABLE 1

Site name	City/county, state	Type	Docket No.	Footnote
Velsicol Chemical Corp. (Illinois)	Marshall, IL	Partial	EPA-HQ-OLEM-2025-0182	(1 3)
Rowe Industries Gnd Water Contamination.	Noyack/Sag Harbor, NY	Full	EPA-HQ-OLEM-2025-1146.	
Kerr-McGee (Kress Creek/W Branch DuPage).	DuPage County, IL	Full	EPA-HQ-OLEM-2025-3819.	(1 2 3)
Caldwell Lace Leather Co., Inc	Auburn, KY	Full	EPA-HQ-OLEM-2026-0001.	
Pepper Steel & Alloys, Inc	Medley, FL	Full	EPA-HQ-OLEM-2026-0002	
Miami Drum Services	Miami, FL	Full	EPA-HQ-OLEM-2026-0003.	
Diamond Shamrock Corp. Landfill	Cedartown, GA	Full	EPA-HQ-OLEM-2026-0004.	(1 3)
Hastings Ground Water Contamination.	Hastings, NE	Partial	EPA-HQ-OLEM-2026-0166	

¹ = Site, or portion of the site, has continued operation and maintenance of the remedy.

² = Site, or portion of the site, receives continued monitoring.

³ = Site, or portion of the site, five-year reviews are conducted.

Information concerning the sites to be deleted and partially deleted from the NPL, and the proposed rule for the

deletion and partial deletion of the sites, are included in table 2.

TABLE 2

Site name	Date, proposed rule	FR citation	Public comment	Responsiveness summary	Full site deletion (full) or media/parcels/ description for partial deletion
Velsicol Chemical Corp. (Illinois)	03/04/2026	91–FR–10557	Yes	No	270-acre land/soils portion of the Site.

TABLE 2—Continued

Site name	Date, proposed rule	FR citation	Public comment	Responsiveness summary	Full site deletion (full) or media/parcels/description for partial deletion
Rowe Industries Gnd Water Contamination.	03/04/2026	91–FR–10557	No	No	Full.
Kerr-McGee (Kress Creek/W Branch DuPage).	03/04/2026	91–FR–10557	No	No	Full.
Caldwell Lace Leather Co., Inc	03/04/2026	91–FR–10557	No	No	Full.
Pepper Steel & Alloys, Inc	03/04/2026	91–FR–10557	No	No	Full.
Miami Drum Services	03/04/2026	91–FR–10557	No	No	Full.
Diamond Shamrock Corp. Landfill ..	03/04/2026	91–FR–10557	No	No	Full.
Hastings Ground Water Contamination.	03/04/2026	91–FR–10557	No	No	Groundwater at Operable Unit 2 and the Source Control Landfill Cap at Operable Unit 10, collectively known as the North Landfill subsite.

For the sites proposed for deletion and partial deletion, the closing date for comments in the proposed rule was April 03, 2026. The EPA received one public comment which was submitted to the docket for the Velsicol Chemical Corp. (Illinois) site. The comment was supportive of all the proposed deletion actions in the rule and was not site-specific. EPA did not consider the submission to be an adverse public comment, and no Responsiveness Summary was prepared. The EPA placed the public comment submission for the Velsicol Chemical Corp. (Illinois) site in the docket specified in table 1, on <https://www.regulations.gov>, and in the appropriate Regional Records Center listed in the **ADDRESSES** section.

The EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible

party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Mark Barolo,

Office Director, Office of Superfund and Emergency Management.

For reasons set out in the preamble, the EPA amends 40 CFR part 300 as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757,

3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. In appendix B to part 300, amend table 1 by:

- a. Removing the entry for “FL”, “Miami Drum Services”, “Miami”.
 - b. Removing the entry for “FL”, “Pepper Steel & Alloys, Inc”, “Medley”.
 - c. Removing the entry for “GA”, “Diamond Shamrock Corp. Landfill”, “Cedartown”.
 - d. Removing the entry for “IL”, “Kerr-McGee (Kress Creek/W Branch DuPage)”, “DuPage County”.
 - e. Revising the entry for “IL”, “Velsicol Chemical Corp. (Illinois)”, “Marshall”.
 - f. Removing the entry for “KY”, “Caldwell Lace Leather Co., Inc”, “Auburn”.
 - g. Revising the entry for “NE”, “Hastings Ground Water Contamination”, “Hastings”.
 - h. Removing the entry for “NY”, “Rowe Industries Gnd Water Contamination”, Noyack/Sag Harbor”.
- The revisions read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
IL	Velsicol Chemical Corp. (Illinois)	Marshall	P.
NE	Hastings Ground Water Contamination	Hastings	P.

P = Sites with partial deletion(s).

* * * * *

[FR Doc. 2026–16988 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 241022–0278; RIN 0648–BO14]

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2025–2026 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial groundfish fisheries. These inseason adjustments will increase sablefish trip limits in the limited entry (LE) and open access (OA) sectors north and south of 36° North latitude (N lat.), and reduce vermilion/sunset rockfish sub-trip limits within the shelf rockfish complex in the LE and OA sectors south of 34°27' N lat. This action is intended to allow commercial fishing vessels to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective August 20, 2026.

ADDRESSES: This final rule is accessible at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, Fishery Management Specialist, at 206–526–6140 or megan.mackey@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for groundfish seaward of Washington, Oregon, and California.

Pacific Coast groundfish fisheries are managed using harvest specifications or limits (e.g., overfishing limits, acceptable biological catch, annual catch limits (ACL), and harvest guidelines) recommended by the Pacific Fishery Management Council (Council) and based on the best scientific information available at that time (50 CFR 660.60(b)).

During development of the harvest specifications, the Council recommends management measures (e.g., trip limits, area closures, and bag limits) that are meant to help achieve but not to exceed the harvest specifications. Based on recommendations from the Council, NMFS develops and implements groundfish harvest specifications and management measures for 2-year periods (i.e., a biennium). Throughout the biennium, the Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures to achieve this goal.

NMFS published the final rule to implement harvest specifications and management measures for the 2025–2026 biennium for most species managed under the Groundfish FMP on December 16, 2024 (89 FR 101514). That final rule was effective on January 1, 2025. Since January 2025, the Council has recommended, and NMFS has implemented, several adjustments to management measures. The inseason adjustments implemented in this action, discussed below, were recommended by the Council at its June 2026 meeting in Spokane, Washington.

This action includes two inseason adjustments: (1) an increase in sablefish trip limits in the LE and OA sectors north and south of 36° N lat., and (2) a reduction in vermilion/sunset rockfish sub-trip limits within the shelf rockfish complex in the LE and OA sectors south of 34°27' N lat. The harvest specifications and mitigation measures developed for the 2025–2026 biennium used the best available data, which included information on the fishery through the 2023 fishing year. The adjustments to mitigation measures provided in this inseason action are based on updated information that was unavailable when the analysis for the current harvest specifications was completed. As new fisheries data becomes available, adjustments to mitigation measures are necessary to help harvesters achieve, but not exceed, annual allocations.

Commercial Sablefish Trip Limit Adjustment

Sablefish is an important commercial species on the U.S. West Coast with vessels targeting sablefish with both trawl and fixed gear (including longline and pots/traps). Sablefish is managed with a coast-wide ACL that is apportioned north and south of 36° N lat. Management measures established during the 2025–26 harvest specifications were based on catch projections using catch data through 2023. Based on updated landings data through April 30, 2026 and model projections for the remainder of 2026, sablefish landings targets for the LE and OA sectors north and south of 36° N lat. (i.e., LE North (LEN), OA North (OAN), LE South (LES), and OA South (OAS)) continue to be relatively high compared to landings, and industry members have indicated that there is some optimism for market expansion (see Groundfish Advisory Subpanel Report on Agenda Item E.2.a from June 2026 Council meeting). Therefore, at its June 2026 meeting, the Council reviewed the analytical documents drafted by its Groundfish Management Team (GMT) and its Groundfish Advisory Subpanel and recommended inseason adjustments to increase the LE and OA sablefish trip limits north and south of 36° N lat. to allow for more attainment of sablefish within the sector allocations.

Under the trip limits established for sablefish through the 2025–26 harvest specifications, the GMT projects 845 metric tons (mt), or 10.8 percent of the combined 2026 landing target of 7,773 mt, of sablefish would be landed by all four sectors. The GMT modeled an increase of approximately 30 percent (between 25 to 35 percent depending on the sector) to all four sectors' trip limits for the remainder of the year. This range helped avoid complicated trip limits; for example, an exact 30 percent increase to the current LEN trip limit of 11,000 pounds (lb) (4,989.5 kilograms (kg)) bimonthly is 14,300 lb (6,486 kg), but the GMT proposed an increase to 14,000 lb (6,350 kg). Under the proposed trip limit increases (Option 2), the GMT projected an additional 183 mt, or about 4 percent of the combined 2026 landing target, of sablefish would be caught across all four sectors. Given that sablefish attainments are projected to be low in 2026, and some vessels would benefit from higher trip limits, the Council recommended the trip limit increases for LE and OA sablefish north and south of 36° N lat. as shown in table 1.

NMFS is approving and implementing this recommendation through this inseason action.

TABLE 1—NEW LE AND OA SABLEFISH TRIP LIMITS FOR NORTH AND SOUTH OF 36° N LAT.

Fishery	Area	New trip limits
LE	North of 36° N lat	7,000 lb (3,175 kg)/week not to exceed 14,000 lb (6,350 kg)/2 months.
	South of 36° N lat	4,000 lb (1,814 kg)/week.
OA	North of 36° N lat	5,000 lb (2,268 kg)/week not to exceed 10,000 lb (4,536 kg)/2 months.
	South of 36° N lat	3,200 lb (1,451.5 kg)/week not to exceed 9,600 lb (4,354.5 kg)/2 months.

Vermilion/Sunset Rockfish Sub-Trip Limit Adjustments South of 34°27' N Lat.

Within the shelf rockfish complex, vermilion/sunset rockfish landings in commercial non-trawl fisheries south of 40°10' N lat. have increased and are estimated to be 10.4 mt higher than at the same time last year. This increase in landings is due to a greater number of participants and a higher proportion of vessels attaining 90 percent or more of their monthly trip limits (see GMT Report on Agenda Item E.2.a from June 2026 Council meeting). Based on current catch trends, the informal commercial/recreational sharing agreement of 100 mt to commercial non-trawl is projected to be exceeded by around 13 percent. As a result, the GMT analyzed potential sub-trip limit reductions for vermilion/sunset rockfish in commercial non-trawl fisheries south of 40°10' N lat.

To reduce the likelihood of exceeding the vermilion/sunset rockfish ACL contribution south of 40°10' N lat., the GMT recommended reducing OAS and LES sub-trip limits. The proposed sub-trip limit reductions south of 34°27' N lat. are expected to reduce vermilion/sunset rockfish mortality within these sectors in 2026 to 98.3 mt, or 98.3 percent of the 100 mt allocation, and better align harvest levels with the ACL contribution for the shelf rockfish complex. NMFS is therefore implementing the following reduced trip limits for the remainder of 2026 as shown in table 2.

TABLE 2—NEW VERMILION/SUNSET ROCKFISH SUB-TRIP LIMITS SOUTH OF 34°27' N LAT.

Area	New sub-trip limits
LES	2,500 lb (1,134 kg)/2 months.
OAS	750 lb (340 kg)/2 months.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best scientific information available, consistent with the Groundfish FMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Megan Mackey in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT** section above), or view at the NMFS West Coast Groundfish website: <https://www.fisheries.noaa.gov/species/west-coast-groundfish>.

Pursuant to 5 U.S.C. 553(b)(B), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The routine adjustments to management measures implemented through this action modify trip limits for sablefish and sub-trip limits for vermilion/sunset rockfish while keeping catch within allocations established by the 2025–2026 harvest specifications. Changes of this nature were anticipated in the final rule for the 2025–2026 harvest specifications and management measures, which was published on December 16, 2024 (89 FR 101514). Rapid implementation of inseason adjustments to routine management measures is also specifically contemplated in the regulations at 50 CFR 660.60(c). Finally, the sablefish trip limit increases and vermilion/sunset rockfish sub-trip limit reductions implemented through this action were discussed at the Council’s June 2026 meeting, which included an opportunity for public comment.

Delaying implementation to allow for additional public comment would likely reduce the economic benefits this action

is intended to provide to the commercial fishing industry and the businesses that rely on that industry, because it would be unlikely that the new regulations would be implemented in time to realize the projected benefits of the increased sablefish trip limits to fishery participants and fishing communities, or the decreased vermilion/sunset rockfish sub-trip limits to the resource during the 2026 fishing year. A delay in implementation could also contribute to unnecessarily discarded and largely wasted fish for any sablefish fishermen who are attaining the lower trip limit. These fish could otherwise be landed to provide food and revenue, and thus timely implementation of this action promotes responsible use of the resource. In sum, providing a comment period for this action could significantly limit economic benefits to the fishery, and could hamper the potential to achieve optimum yield from the affected fisheries. Accordingly, there is good cause to waive notice and comment rulemaking under 5 U.S.C. 553(b)(B).

For the same reasons, NMFS has determined that the 30-day delay in the date of effectiveness required by 5 U.S.C. 553(d) does not apply to this inseason action because there is good cause to waive the requirement under 5 U.S.C. 553(d)(3). NMFS therefore finds that this final rule may become effective upon publication in the **Federal Register**. The adjustments to management measures implemented in this action would affect sablefish commercial fisheries by increasing opportunity and allowing greater economic benefit; thus helping harvesters achieve, but not exceed, annual allocations. The adjustments would also help commercial non-trawl fishermen avoid exceeding the 2026 vermilion/sunset rockfish ACL contribution south of 40°10' N lat. Finally, these adjustments were requested by the Council’s advisory bodies, as well as members of industry,

during the Council's June 2026 meeting, and were recommended by the Council, following the opportunity for public comment at the June 2026 meeting. Routine changes of this nature were anticipated in the 2025–2026 biennial harvest specifications and management measures, which were established through a notice and comment rulemaking for (December 16, 2024 (89 FR 101514)).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 17, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. Amend table 2b (North) to part 660, subpart E by revising the entry for “Sablefish” to read as follows:

TABLE 2b (NORTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL NORTH OF 40°10' N LAT.

Species	Trip limit
Sablefish	7,000 lb/week not to exceed 14,000 lb/2 months.

* * * * *

■ 3. Amend table 2b (South) to part 660, subpart E by revising the entries for “Sablefish (south of 36° N lat.)” and

“Shelf rockfish complex (south of 34° 27' N lat.); excludes bronzespotted rockfish” to read as follows:

TABLE 2b (SOUTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL SOUTH OF 40°10' N LAT.

Species	Trip limit
Sablefish (south of 36° N lat.)	4,000 lb/week.
Shelf rockfish complex (south of 34°27' N lat.); excludes bronzespotted rockfish.	5,000 lb per 2 months, of which no more than 2,500 lb may be vermillion/sunset rockfish.

* * * * *

■ 4. Amend table 3b (North) to part 660, subpart F by revising the entry for “Sablefish” to read as follows:

TABLE 3b (NORTH) TO PART 660, SUBPART F—TRIP LIMITS FOR OPEN ACCESS NORTH OF 40°10' N LAT.

Species	Trip limit
Sablefish	5,000 lb/week not to exceed 10,000 lb/2 months.

* * * * *

■ 5. Amend table 3b (South) to part 660, subpart F by revising the entries for

“Sablefish (south of 36° N lat.)” and “Shelf rockfish complex (south of 34°27' N lat.); excludes bronzespotted rockfish” to read as follows:

TABLE 3b (SOUTH) TO PART 660, SUBPART F—TRIP LIMITS FOR OPEN ACCESS SOUTH OF 40°10' N LAT.

Species	Trip limit
* * * * *	* * * * *
Sablefish (south of 36° N lat.)	3,200 lb/week not to exceed 9,600 lb/2 months.
* * * * *	* * * * *
Shelf rockfish complex (south of 34°27' N lat.); excludes bronzespotted rockfish.	3,000 lb per 2 months, of which no more than 750 lb may be vermilion/sunset rockfish.
* * * * *	* * * * *

Proposed Rules

Federal Register

Vol. 91, No. 160

Thursday, August 20, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AI67

Small Business Size Standards

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA or the Agency) is proposing new size standards for 338 industry groups and industries. The new size standards are designed to better reflect the nature of the markets in which small businesses compete. SBA seeks comments on its proposed changes to size standards.

DATES: SBA must receive comments on this proposed rule on or before September 21, 2026.

ADDRESSES: You may submit comments identified by RIN 3245–AI67 or Docket No. SBA–2026–0199 by one of the following methods:

(1) *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments; or

(2) *Mail/Hand Delivery/Courier:* Ryan Lambert, Associate Administrator, Office of Government Contracting and Business Development, 409 Third Street SW, Mail Code 6530, Washington, DC 20416.

SBA will post all comments on this proposed rule on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, you must submit such information to GCBDRags@sba.gov with “RIN 3245–AI67” in the subject heading. Highlight the information that you consider to be CBI, and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found on www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Ryan Lambert, Associate Administrator, Office of Government Contracting and Business Development, GCBDRags@sba.gov.

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (usually referred to as “size standards”) for private sector industries in the United States pursuant to the Administrator’s authority in the Small Business Act, 15 U.S.C. 631 *et seq.* (“the Act”). See 15 U.S.C. 632(a)(2)(A).

In conjunction with this Notice of Proposed Rulemaking, SBA is publishing a white paper on an updated methodology for calculating small business size standards for public comment (“Revised Methodology”). This Revised Methodology was used to calculate the size standards proposed herein and all background, analysis, and discussion in the Methodology are incorporated herein.

Briefly, SBA’s proposed size standards methodology examines the structural characteristics of an industry or industry group as a basis to assess differences and the overall degree of competitiveness within the industry group or industry. To ensure its size standards offer complete coverage of all areas of the economy where small businesses may compete, SBA uses the most recent revision of the North American Industry Classification System (NAICS) as a method to group similar firms into markets. As used herein, SBA considers an industry to be a 5- or 6-digit NAICS code and an industry group to be a 4-digit NAICS code.

As described more fully in SBA’s proposed size standards methodology accompanying this Notice of Proposed Rulemaking (NPRM), market structure is examined by analyzing its average market size. In turn, average market size can be broken down into three components. The first component is the total size of all participants in the industry group or industry, including for-profit businesses, not-for-profit entities, and government owned entities, which is referred to as the national industry size. The second component is the number of distinct geographic markets in which competition takes place. The third component is an adjustment for imports

and exports to account for international competition faced by domestic firms.

Industry groups or industries with smaller average market sizes are given smaller size standards since less scale is required in those industries for a firm to be dominant. By contrast, industry groups or industries with larger average market sizes are given larger size standards as a greater level of scale is required for a firm to be dominant. When SBA’s proposed or revised size standards deviate from the analytical results based on these factors, the Agency provides a detailed explanation.

In addition to reviewing all size standards and adjusting them as necessary to reflect market conditions, SBA’s Methodology adjusts all receipt based standards for inflation and productivity growth. SBA most recently adjusted size standards for inflation on November 17, 2022, but has never before adjusted for productivity growth in the economy.

A. Background

In September 2010, Congress passed the Small Business Jobs Act (Pub. L. 111–240, 124 Stat. 2504 (September 27, 2010)) (Jobs Act) requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. Section 1831 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328; December 23, 2016) (NDAA 2017) directed SBA to establish size standards for all agricultural enterprises in the same manner as for other industries and to include them in the five-year rolling review procedures established under section 1344(a) of the Jobs Act.

In accordance with the Jobs Act, SBA completed the first five-year review of all size standards (except size standards for agricultural enterprises) in 2016¹ and the second five-year review of size standards (including size standards for agricultural enterprises in accordance with NDAA 2017) in 2023,² and made

¹ See “A Report on the First Five-Year Comprehensive Review of Small Business Size Standards Under the Small Business Jobs Act of 2010” available at <https://www.sba.gov/sites/default/files/2023-09/Report%20on%20the%20First%20Five-Year%20Comprehensive%20Size%20Standards%20Review-508F.pdf>.

² See “A Report on the Second Five-Year Comprehensive Review of Small Business Size Standards Under the Small Business Jobs Act of

Continued

adjustments to size standards for a number of industries.

During the second five-year review of size standards under the Jobs Act, SBA reviewed a total of 1,037 size standards and increased the size standards for 436 specific industries. The analysis of available data at that time suggested that a total of 492 size standards might be decreased, but in response to ongoing economic impacts as a result of the COVID-19 pandemic, SBA decided to retain those size standards at the current levels.³

Currently, there are 102 different size standards levels, covering 978 NAICS industries and 18 subindustries (commonly known as “exceptions” in SBA’s table of size standards). Seventy-three of these size levels are based on average annual receipts covering 496 industries and 13 subindustries (“exceptions”), 27 are based on average number of employees covering 477 industries and five subindustries (“exceptions”), one is based on refining capacity covering one industry, and one is based on average assets covering four industries.

SBA also adjusts its monetary based size standards for inflation at least once every five years. An interim final rule on SBA’s latest inflation adjustment to size standards, effective December 19, 2022, was published in the **Federal Register** on November 17, 2022 (87 FR 69118), which SBA finalized on July 19, 2023, adopting the November 2022 interim rule (88 FR 46048). SBA also updates its size standards every five years to adopt the Office of Management and Budget’s (OMB) quinquennial NAICS revisions to its table of small business size standards. Effective October 1, 2022, SBA adopted the OMB’s 2022 NAICS revisions to its size

standards (87 FR 59240, September 29, 2022).

On September 12, 2024, SBA issued a revised “Size Standards Methodology” (2024 Methodology), available at www.sba.gov/size, for establishing, reviewing, or modifying SBA existing size standards. In the paper, SBA examined the structural characteristics of an industry as a basis to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. Industry structure was examined by analyzing four primary factors—average firm size, degree of competition within an industry, start-up costs and entry barriers, and distribution of firms by size. To assess the ability of small businesses to compete for Federal contracting opportunities under the current size standards, as the fifth primary factor, SBA also examined, for each industry averaging \$20 million or more in average annual Federal contract dollars, the Federal contracting factor in terms of two disparity ratios. The first disparity ratio measured the small business share of total contracts relative to the small business share of the total population of firms that are willing, ready, and able to bid on and perform Federal contracts. The second disparity ratio represented the small business share of Federal contract dollars relative to the small business share in total industry’s receipts. When warranted, SBA also considered other secondary factors that are relevant to the industries and the interests of small businesses, including the impacts of size standards changes on small businesses. These factors, while often associated with a firm’s dominance in its field of operation, did not directly relate and in some cases led size standards astray. For example, the small size of farms led SBA to giving them size standards far below firms in other sectors of the economy despite the fact that the markets they competed in were national in scope.

B. Major Changes to the Size Standards Methodology

As discussed further in the Revised Methodology, SBA is proposing to make changes to the methodology of determining size standards to ensure the methodology aligns with statutory requirements. This section gives an overview of the most significant changes. For further details please see the full Revised Methodology, which is available in the docket for this rulemaking at regulations.gov. The five most significant changes are as follows:

1. Changing the NAICS level at which size standards are calculated from the 6-

digit NAICS code to a mix of 4- and 5-digit NAICS codes—In the 2024 Methodology, size standards were set at the 6-digit NAICS code which produced nearly 1,000 individual size standards once exceptions for federal contracting were included. The Revised Methodology instead sets size standards at a combination of 4- and 5-digit NAICS code which simplifies these to 338 individual size standards. This will decrease confusion surrounding whether a small business fits into a specific 6-digit category bearing several similar industries. Along with the change in aggregation, SBA has also proposed to remove all size standard exceptions.

2. Converting numerous industry groups and industries from receipt-based size standards to an employee-based one—In the 2024 Methodology, it was SBA’s policy to use receipt-based size standards in industries which were neither manufacturing nor services unless the industry maintained certain conditions such as high capital intensity or low operational costs. The proposed methodology takes the opposite approach and defaults to employment-based size standards for all industry groups or industries where SBA has discretion. This will reduce the number of firms fluctuating between small and other than small business status, due to business volatility, inflation, and productivity growth.

3. Updated factors determining small business size standards—In the 2024 Methodology, the SBA used seven factors for calculating size standards: simple average firm size, weighted average firm size, average assets per firm, national four firm concentration ratio, national Gini coefficient, and two disparity measures of federal contracts for any industries which received at least \$20 million in federal contracts. By contrast, the proposed Revised Methodology uses three: national industry size, number of geographic markets, and an adjustment for net imports, which are combined together into an average market size measure. The changes in factors is intended to more closely align the size standard’s methodology with the Small Business Act’s statutory language requiring a small business concern to be one which is “not dominant in its field of operations”. SBA believes the best reading of the language is that a field of operations should include both the goods or services business provide as well as a geographic area in which they compete. This is similar to how the Federal Trade Administration and

2010”, available at https://www.sba.gov/sites/default/files/2023-07/SBA%27s%20Report%20on%20the%20Second%205%20Year%20Review%20of%20Size%20Standards_Final.pdf.

³ See Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting, Mining, Quarrying, and Oil and Gas Extraction, Utilities, Construction (87 FR 18607, March 31, 2022), Small Business Size Standards: Transportation and Warehousing, Information, Finance and Insurance, Real Estate and Rental and Leasing (87 FR 18627, March 31, 2022), Small Business Size Standards: Professional, Scientific and Technical Services, Management of Companies and Enterprises, Administrative and Support and Waste Management and Remediation Services (87 FR 18665, March 31, 2022), Small Business Size Standards: Education Services, Health Care and Social Assistance, Arts, Entertainment and Recreation, Accommodation and Food Services, Other Services (87 FR 18646, March 31, 2022), and Small Business Size Standards: Wholesale Trade and Retail Trade (87 FR 35869, June 14, 2022), Small Business Size Standards: Manufacturing and Industries With Employee-Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade (88 FR 9970).

Department of Justice define a market in their Horizontal Merger Guidelines.⁴

4. Updated formula for calculating size standards—In the 2024 Methodology, SBA calculated a size standard for each of the seven factors separately by comparing the industry to other industries in a comparison group and then averaging the results of the seven together. SBA also imposed a minimum and maximum size standard imposing a narrow range for size standards even when the factors suggested a size standard outside the range—most often at the high end. In the Revised Methodology, the average market size for an industry is converted into a size standard by using a single function. The Revised Methodology has no explicit maximum size standard but does have a minimum size standard. This allows size standards to vary over a larger range and, in the case of some industries, allows for higher size standards than the existing methodology.

5. Added in a productivity adjustment for monetary based size standards—In the 2024 methodology, SBA adjusts monetary based size standards for inflation. In the proposed methodology, SBA continues to adjust for inflation but adds in an adjustment for general productivity increases in the U.S. economy as well. The productivity adjustment incorporates technological improvements and growing worker skills which increase business costs and receipts faster than inflation alone. This change allows firms with monetary based size standards to be placed on an equal footing to those with employment based size standards, which have an implicit productivity adjustment built in.

C. Changes to Methodology

SBA has long weighed prevailing economic conditions in deciding whether to revise size standards. Following the 2007–2009 recession, SBA declined in the first five-year review under the Jobs Act to lower any size standard, even where the then-current methodology supported reductions in some industries. SBA adopted the same policy in the second

five-year review for standards retaining the same measure. Economic conditions will continue to inform SBA's analysis as a secondary factor.

Lowering a size standard—or retaining one that is already too low—would cost many currently small firms, especially the most experienced and capable, their small business status and their eligibility for Federal assistance and small business contracts.

Given the difficult conditions small businesses faced during 2021–2024, including high inflation and increased regulatory burdens, SBA believes reductions would stifle the economic growth now underway. SBA therefore proposes not to reduce any industry size standard, even in the 45 industries where analytics may propose a decrease. Unlike prior results, the new results generally give small businesses room to grow while still accurately distinguishing them from larger peers. Reducing standards would run counter to SBA's mission to aid, counsel, assist, and protect the interests of small business concerns, preserve free competitive enterprise, and maintain and strengthen the Nation's economy.

Lowering the threshold for what qualifies as a small business—whether by reducing a standard or leaving one too low—would carry negative effects across the economy: value to the taxpayer, Government contracting, subcontracting and supply chains, access to capital, competition and industry consolidation, innovation and entrepreneurship, job creation, economic growth, the defense industrial base and national security, and the small business industrial base.

Access to capital and other benefits. Small firms without small status lose access to SBA-backed loans and guarantees, limiting investment in equipment, technology, and workforce development, along with other benefits such as lower taxes and exemptions from certain compliance and paperwork requirements. Some would slow expansion or close.

Economic growth and jobs. Small businesses generate roughly 44 percent of U.S. GDP, two-thirds of net new jobs, and nearly half of private sector

employment. Small firms without small status—and small firms without small status in industries where standards are already too low—would face financial pressure, reduce hiring, or lay off workers.

Industrial Base Resilience: Small firms excluded from small business status would compete directly against large corporations with far greater resources. Many would be acquired or exit, consolidating key sectors such as manufacturing, construction, and IT, reducing innovation and choice, and raising costs to the taxpayer. That outcome would conflict with *Executive Order 14267 (90 FR 15629, April 9, 2025)*, which directs agencies to reduce anticompetitive regulatory barriers.

Small firms without small status would lose access to set-aside contracts, shrinking the pool of qualified suppliers in contract-dependent industries such as defense, construction and IT. Fewer contractors capable of high-value or technically demanding work means delays, lower quality, and higher prices. Firms would also lose subcontracting opportunities, as primes favor subcontractors that still count toward their small business goals.

Small businesses comprise 73 percent of companies in the U.S. defense industrial base (*Department of War*), even while DoW small business vendor count decreased 49 percent between 2010 and 2024. Lowering standards or retaining one that is already too low would disqualify additional firms, narrow DoW's options for specialized capabilities, and further erode the flexibility and resilience essential to the defense and broader industrial base.

At a time of resurgent American manufacturing, preventing small businesses from obtaining small status would undercut American manufacturing, national security, and industrial base resilience. For these reasons, SBA proposes not to reduce any size standard where analytical results suggest a reduction. The 45 affected industries, which will retain their current size standards, are listed in the table below.

NAICS	Description	Recommended size standard	Proposed size standard
2122 ...	Metal Ore Mining	1,450 employees	1,500 employees.
2211 ...	Electric Power Generation, Transmission and Distribution	700 employees	1,150 employees.
2212 ...	Natural Gas Distribution	500 employees	1,150 employees.
31131	Sugar Manufacturing	700 employees	1,150 employees.
31134	Nonchocolate Confectionery Manufacturing	900 employees	1,000 employees.
31181	Bread and Bakery Product Manufacturing	900 employees	1,000 employees.
31182	Cookie, Cracker, and Pasta Manufacturing	1,000 employees	1,250 employees.

⁴ 2023 Merger Guidelines—Antitrust Division, Department of Justice.

NAICS	Description	Recommended size standard	Proposed size standard
3119 ...	Other Food Manufacturing	1,050 employees	1,250 employees.
3121 ...	Beverage Manufacturing	1,150 employees	1,400 employees.
3122 ...	Tobacco Manufacturing	1,150 employees	1,500 employees.
3149 ...	Other Textile Product Mills	600 employees	1,000 employees.
3212 ...	Veneer, Plywood, and Engineered Wood Product Manufacturing	1,100 employees	1,250 employees.
3241 ...	Petroleum and Coal Products Manufacturing	1,250 employees	1,500 employees.
3253 ...	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing.	600 employees	1,350 employees.
3256 ...	Soap, Cleaning Compound, and Toilet Preparation Manufacturing.	1,050 employees	1,250 employees.
3259 ...	Other Chemical Product and Preparation Manufacturing	950 employees	1,500 employees.
3271 ...	Clay Product and Refractory Manufacturing	850 employees	1,000 employees.
3272 ...	Glass and Glass Product Manufacturing	1,050 employees	1,250 employees.
32731	Cement Manufacturing	750 employees	1,000 employees.
32733	Concrete Pipe, Brick, and Block Manufacturing	500 employees	750 employees.
32741	Lime Manufacturing	650 employees	1,050 employees.
32742	Gypsum Product Manufacturing	700 employees	1,500 employees.
3279 ...	Other Nonmetallic Mineral Product Manufacturing	900 employees	1,500 employees.
3324 ...	Boiler, Tank, and Shipping Container Manufacturing	1,300 employees	1,500 employees.
3329 ...	Other Fabricated Metal Product Manufacturing	1,250 employees	1,500 employees.
3332 ...	Industrial Machinery Manufacturing	1,250 employees	1,500 employees.
3333 ...	Commercial and Service Industry Machinery Manufacturing	850 employees	1,000 employees.
3334 ...	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing.	1,050 employees	1,250 employees.
3336 ...	Engine, Turbine, and Power Transmission Equipment Manufacturing.	1,450 employees	1,500 employees.
3346 ...	Manufacturing and Reproducing Magnetic and Optical Media	750 employees	1,250 employees.
3351 ...	Electric Lighting Equipment Manufacturing	1,100 employees	1,250 employees.
3352 ...	Household Appliance Manufacturing	1,450 employees	1,500 employees.
3359 ...	Other Electrical Equipment and Component Manufacturing	1,200 employees	1,250 employees.
3365 ...	Railroad Rolling Stock Manufacturing	1,200 employees	1,500 employees.
3369 ...	Other Transportation Equipment Manufacturing	1,150 employees	1,500 employees.
33791	Mattress Manufacturing	800 employees	1,000 employees.
33792	Blind and Shade Manufacturing	850 employees	1,000 employees.
4812 ...	Nonscheduled Air Transportation	1,300 employees	1,500 employees.
4831 ...	Deep Sea, Coastal, and Great Lakes Water Transportation	1,400 employees	1,500 employees.
4861 ...	Pipeline Transportation of Crude Oil	1,050 employees	1,500 employees.
4869 ...	Other Pipeline Transportation	1,000 employees	1,500 employees.
4921 ...	Couriers and Express Delivery Services	1,100 employees	1,500 employees.
5171 ...	Wired and Wireless Telecommunications (except Satellite)	750 employees	1,500 employees.
5621 ...	Waste Collection	\$38 million in receipts	\$47 million in receipts.
8123 ...	Drycleaning and Laundry Services	\$35 million in receipts	\$47 million in receipts.

The following table describes the current size standards and presents the proposed size standard for each 6-digit NAICS code to facilitate easy comparisons for businesses. The table also provides estimates of the small

business count under the current standard and the new standard as well as the difference between them. Empty cells indicate that no estimate is available for the current standard, the proposed standard, or both.⁵ To

facilitate comparison between the current and proposed standard, if either count is missing, both are excluded from the totals and from the difference calculations.

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⁵ For farms (NAICS subsectors 111 and 112), the Census of Agriculture does not report data by firm size so the number of small businesses under the current or proposed standard cannot be estimated. Using the breakdown of farm establishments by receipts size there may be as many as 38,000 new small farm businesses. This number assumes all establishments are separate farms and that all farms will qualify as small businesses. For Credit Card Issuing (NAICS 522210), because the current size

standard is in assets the Statistics of U.S. Businesses (SUSB) cannot be used to estimate number of firms. Two recently split off NAICS codes for Compost Manufacturing (NAICS 325315) and Agents for Wireless Telecommunications Services (NAICS 517122) also cannot be calculated, but all small businesses in these industries are included in the counts of Fertilizer (Mixing Only) Manufacturing (NAICS 325314) and Wireless Telecommunications Carriers (except Satellite)

(NAICS 517112) respectively. One industry Corporate, Subsidiary, and Regional Managing Offices (NAICS 551114) did not currently have a size standard. Lastly, Insurance and Employee Benefit Funds (NAICS 5251), and Trusts, Estates, and Agency Accounts (NAICS 525920) are not included in SUSB so neither the number of small businesses under the current or proposed standards can be estimated.

NAICS	Description	Current Size Standard	Current Small Business Count	Proposed Size Standard	Proposed Small Business Count	Proposed - Current Small Business Count
111110	Soybean Farming	\$2.25 million in receipts		2,700 employees		
111120	Oilseed (except Soybean) Farming	\$2.25 million in receipts		2,700 employees		
111130	Dry Pea and Bean Farming	\$2.75 million in receipts		2,700 employees		
111140	Wheat Farming	\$2.25 million in receipts		2,700 employees		
111150	Corn Farming	\$2.5 million in receipts		2,700 employees		
111160	Rice Farming	\$2.5 million in receipts		2,700 employees		
111191	Oilseed and Grain Combination Farming	\$2.25 million in receipts		2,700 employees		
111199	All Other Grain Farming	\$2.25 million in receipts		2,700 employees		
111211	Potato Farming	\$4.25 million in receipts		2,750 employees		
111219	Other Vegetable (except Potato) and Melon Farming	\$3.75 million in receipts		2,750 employees		
111310	Orange Groves	\$4 million in receipts		3,500 employees		
111320	Citrus (except Orange) Groves	\$4.25 million in receipts		3,500 employees		
111331	Apple Orchards	\$4.5 million in receipts		3,500 employees		
111332	Grape Vineyards	\$4 million in receipts		3,500 employees		
111333	Strawberry Farming	\$5.5 million in receipts		3,500 employees		
111334	Berry (except Strawberry) Farming	\$3.75 million in receipts		3,500 employees		
111335	Tree Nut Farming	\$3.75 million in receipts		3,500 employees		
111336	Fruit and Tree Nut Combination Farming	\$5 million in receipts		3,500 employees		
111339	Other Noncitrus Fruit Farming	\$3.5 million in receipts		3,500 employees		
111411	Mushroom Production	\$4.5 million in receipts		1,550 employees		
111419	Other Food Crops Grown Under Cover	\$4.5 million in receipts		1,550 employees		
111421	Nursery and Tree Production	\$3.25 million in receipts		2,750 employees		
111422	Floriculture Production	\$3.75 million in receipts		2,750 employees		
111910	Tobacco Farming	\$2.5 million in receipts		2,450 employees		
111920	Cotton Farming	\$3.25 million in receipts		2,450 employees		
111930	Sugarcane Farming	\$5 million in receipts		2,450 employees		
111940	Hay Farming	\$2.5 million in receipts		2,450 employees		
111991	Sugar Beet Farming	\$2.5 million in receipts		2,450 employees		
111992	Peanut Farming	\$2.5 million in receipts		2,450 employees		
111998	All Other Miscellaneous Crop Farming	\$2.5 million in receipts		2,450 employees		
112111	Beef Cattle Ranching and Farming	\$2.5 million in receipts		3,000 employees		
112112	Cattle Feedlots	\$22 million in receipts		3,000 employees		
112120	Dairy Cattle and Milk Production	\$3.75 million in receipts		3,000 employees		
112130	Dual-Purpose Cattle Ranching and Farming	\$4 million in receipts		1,750 employees		
112210	Hog and Pig Farming	\$19 million in receipts		1,250 employees		
112310	Chicken Egg Production	\$3.5 million in receipts		1,700 employees		
112320	Broilers and Other Meat Type Chicken Production	\$3.75 million in receipts		1,050 employees		
112330	Turkey Production	\$4 million in receipts		850 employees		
112340	Poultry Hatcheries	\$3.75 million in receipts		550 employees		
112390	Other Poultry Production	\$3.5 million in receipts		1,250 employees		
112410	Sheep Farming	\$2.5 million in receipts		1,050 employees		
112420	Goat Farming	\$3.75 million in receipts		2,050 employees		
112511	Finfish Farming and Fish Hatcheries	\$3.75 million in receipts		2,050 employees		
112512	Shellfish Farming	\$3.75 million in receipts		2,050 employees		
112519	Other Aquaculture	\$3.25 million in receipts		1,550 employees		

112910	Apiculture	\$2.75 million in receipts		1,550 employees		
112920	Horses and Other Equine Production	\$3.75 million in receipts		1,550 employees		
112930	Fur-Bearing Animal and Rabbit Production	\$2.75 million in receipts		1,550 employees		
112990	All Other Animal Production	\$2.75 million in receipts		1,550 employees		
113110	Timber Tract Operations	\$19 million in receipts	445	850 employees	452	7
113210	Forest Nurseries and Gathering of Forest Products	\$20.5 million in receipts	160	500 employees	166	6
113310	Logging	500 employees	7356	1,400 employees	7360	4
114111	Finfish Fishing	\$25 million in receipts	1520	\$327 million in receipts	1534	14
114112	Shellfish Fishing	\$14 million in receipts	962	\$327 million in receipts	963	1
114119	Other Marine Fishing	\$11.5 million in receipts	118	\$327 million in receipts	118	0
114210	Hunting and Trapping	\$8.5 million in receipts	427	\$159 million in receipts	429	2
115111	Cotton Ginning	\$16 million in receipts	164	\$624 million in receipts	177	13
115112	Soil Preparation, Planting, and Cultivating	\$9.5 million in receipts	2040	\$624 million in receipts	2135	95
115113	Crop Harvesting, Primarily by Machine	\$13.5 million in receipts	360	\$624 million in receipts	367	7
115114	Postharvest Crop Activities (except Cotton Ginning)	\$34 million in receipts	762	\$624 million in receipts	858	96
115115	Farm Labor Contractors and Crew Leaders	\$19 million in receipts	606	\$624 million in receipts	640	34
115116	Farm Management Services	\$15.5 million in receipts	637	\$624 million in receipts	673	36
115210	Support Activities for Animal Production	\$11 million in receipts	4762	\$71 million in receipts	4805	43
115310	Support Activities for Forestry	\$11.5 million in receipts	1790	\$191 million in receipts	1835	45
211120	Crude Petroleum Extraction	1,250 employees	3395	2,200 employees	3404	9
211130	Natural Gas Extraction	1,250 employees	812	2,200 employees	819	7
212114	Surface Coal Mining	1,500 employees	216	1,550 employees	218	2
212115	Underground Coal Mining	1,400 employees	94	1,550 employees	94	0
212210	Iron Ore Mining	1,500 employees	15	1,500 employees	15	0
212220	Gold Ore and Silver Ore Mining	1,400 employees	161	1,500 employees	161	0
212230	Copper, Nickel, Lead, and Zinc Mining	1,250 employees	27	1,500 employees	27	0
212290	Other Metal Ore Mining	500 employees	42	1,500 employees	42	0
212311	Dimension Stone Mining and Quarrying	750 employees	333	950 employees	333	0
212312	Crushed and Broken Limestone Mining and Quarrying	850 employees	488	950 employees	493	5
212313	Crushed and Broken Granite Mining and Quarrying	550 employees	75	950 employees	76	1
212319	Other Crushed and Broken Stone Mining and Quarrying	500 employees	269	950 employees	275	6
212321	Construction Sand and Gravel Mining	750 employees	1457	950 employees	1480	23
212322	Industrial Sand Mining	650 employees	121	950 employees	121	0
212323	Kaolin, Clay, and Ceramic and Refractory Minerals Mining	600 employees	62	950 employees	62	0
212390	Other Nonmetallic Mineral Mining and Quarrying	1,000 employees	161	950 employees	163	2
213111	Drilling Oil and Gas Wells	\$47 million in receipts	1483	2,650 employees	1495	12
213112	Support Activities for Oil and Gas Operations	\$27.5 million in receipts	7431	2,650 employees	7681	250
213113	Support Activities for Coal Mining	\$41 million in receipts	134	2,650 employees	153	19
213114	Support Activities for Metal Mining	\$20.5 million in receipts	175	2,650 employees	187	12
213115	Support Activities for Nonmetallic Minerals (except Fuels) Mining	750 employees	175	2,650 employees	187	12
221111	Hydroelectric Power Generation	950 employees	142	1,150 employees	143	1
221112	Fossil Fuel Electric Power Generation	1,150 employees	176	1,150 employees	180	4
221113	Nuclear Electric Power Generation	employees	16	1,150 employees	16	0

221114	Solar Electric Power Generation	500 employees	511	1,150 employees	513	2
221115	Wind Electric Power Generation	1,150 employees	75	1,150 employees	75	0
221116	Geothermal Electric Power Generation	250 employees	13	1,150 employees	18	5
221117	Biomass Electric Power Generation	550 employees	61	1,150 employees	63	2
221118	Other Electric Power Generation	650 employees	86	1,150 employees	86	0
221121	Electric Bulk Power Transmission and Control	950 employees	70	1,150 employees	71	1
221122	Electric Power Distribution	1,100 employees	1223	1,150 employees	1223	0
221210	Natural Gas Distribution	1,150 employees	390	1,150 employees	390	0
221310	Water Supply and Irrigation Systems	\$41 million in receipts	3528	500 employees	3565	37
221320	Sewage Treatment Facilities	\$35 million in receipts	300	500 employees	317	17
221330	Steam and Air-Conditioning Supply	\$30 million in receipts	33	500 employees	43	10
236115	New Single-Family Housing Construction (except For-Sale Builders)	\$45 million in receipts	58947	550 employees	59247	300
236116	New Multifamily Housing Construction (except For-Sale Builders)	\$45 million in receipts	3375	550 employees	3665	290
236117	New Housing For-Sale Builders	\$45 million in receipts	11274	550 employees	11711	437
236118	Residential Remodelers	\$45 million in receipts	132489	550 employees	132669	180
236210	Industrial Building Construction	\$45 million in receipts	2832	600 employees	2928	96
236220	Commercial and Institutional Building Construction	\$45 million in receipts	35328	600 employees	37196	1868
237110	Water and Sewer Line and Related Structures Construction	\$45 million in receipts	10297	700 employees	10555	258
237120	Oil and Gas Pipeline and Related Structures Construction	\$45 million in receipts	1560	2,000 employees	1722	162
237130	Power and Communication Line and Related Structures Construction	\$45 million in receipts	5197	1,500 employees	5414	217
237210	Land Subdivision	\$34 million in receipts	4410	850 employees	4481	71
237310	Highway, Street, and Bridge Construction	\$45 million in receipts	7699	700 employees	8330	631
237990	Other Heavy and Civil Engineering Construction	\$45 million in receipts	4363	900 employees	4493	130
238110	Poured Concrete Foundation and Structure Contractors	\$19 million in receipts	21721	650 employees	22397	676
238120	Structural Steel and Precast Concrete Contractors	\$19 million in receipts	3644	650 employees	3875	231
238130	Framing Contractors	\$19 million in receipts	12233	650 employees	12462	229
238140	Masonry Contractors	\$19 million in receipts	18116	650 employees	18342	226
238150	Glass and Glazing Contractors	\$19 million in receipts	6379	650 employees	6538	159
238160	Roofing Contractors	\$19 million in receipts	23421	650 employees	24029	608
238170	Siding Contractors	\$19 million in receipts	8910	650 employees	8986	76
238190	Other Foundation, Structure, and Building Exterior Contractors	\$19 million in receipts	6123	650 employees	6231	108
238210	Electrical Contractors and Other Wiring Installation Contractors	\$19 million in receipts	77572	550 employees	79376	1804
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$19 million in receipts	104612	550 employees	106800	2188
238290	Other Building Equipment Contractors	\$22 million in receipts	6407	550 employees	6667	260
238310	Drywall and Insulation Contractors	\$19 million in receipts	18924	600 employees	19453	529
238320	Painting and Wall Covering Contractors	\$19 million in receipts	37640	600 employees	37819	179
238330	Flooring Contractors	\$19 million in receipts	17576	600 employees	17767	191
238340	Tile and Terrazzo Contractors	\$19 million in receipts	10599	600 employees	10664	65
238350	Finish Carpentry Contractors	\$19 million in receipts	31521	600 employees	31819	298
238390	Other Building Finishing Contractors	\$19 million in receipts	7589	600 employees	7736	147
238910	Site Preparation Contractors	\$19 million in receipts	37660	550 employees	39132	1472
238990	All Other Specialty Trade Contractors	\$19 million in receipts	39079	550 employees	39707	628

311111	Dog and Cat Food Manufacturing	1,250 employees	323	1,800 employees	323	0
311119	Other Animal Food Manufacturing	650 employees	819	1,800 employees	841	22
311211	Flour Milling	1,050 employees	185	1,800 employees	185	0
311212	Rice Milling	750 employees	54	1,800 employees	57	3
311213	Malt Manufacturing	500 employees	25	1,800 employees	25	0
311221	Wet Corn Milling and Starch Manufacturing	1,300 employees	26	1,800 employees	26	0
311224	Soybean and Other Oilseed Processing	1,250 employees	89	1,800 employees	91	2
311225	Fats and Oils Refining and Blending	1,100 employees	80	1,800 employees	83	3
311230	Breakfast Cereal Manufacturing	1,300 employees	62	1,800 employees	62	0
311313	Beet Sugar Manufacturing	1,150 employees	11	1,150 employees	11	0
311314	Cane Sugar Manufacturing	1,000 employees	37	1,150 employees	38	1
311340	Nonchocolate Confectionery Manufacturing	1,250 employees	488	1,000 employees	488	0
311351	Chocolate and Confectionery Manufacturing from Cacao Beans	1,000 employees	240	1,300 employees	240	0
311352	Confectionery Manufacturing from Purchased Chocolate	1,000 employees	913	1,300 employees	913	0
311411	Frozen Fruit, Juice, and Vegetable Manufacturing	1,100 employees	127	2,050 employees	130	3
311412	Frozen Specialty Food Manufacturing	1,250 employees	434	2,050 employees	436	2
311421	Fruit and Vegetable Canning	1,000 employees	656	1,950 employees	670	14
311422	Specialty Canning	1,400 employees	92	1,950 employees	93	1
311423	Dried and Dehydrated Food Manufacturing	750 employees	205	1,950 employees	209	4
311511	Fluid Milk Manufacturing	1,150 employees	191	2,350 employees	196	5
311512	Creamery Butter Manufacturing	750 employees	33	2,350 employees	39	6
311513	Cheese Manufacturing	1,250 employees	393	2,350 employees	398	5
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	1,000 employees	94	2,350 employees	101	7
311520	Ice Cream and Frozen Dessert Manufacturing	1,000 employees	431	2,350 employees	431	0
311611	Animal (except Poultry) Slaughtering	1,150 employees	1205	2,000 employees	1212	7
311612	Meat Processed from Carcasses	1,000 employees	1370	2,000 employees	1383	13
311613	Rendering and Meat Byproduct Processing	750 employees	65	2,000 employees	65	0
311615	Poultry Processing	1,250 employees	255	2,000 employees	265	10
311710	Seafood Product Preparation and Packaging	750 employees	422	1,250 employees	426	4
311811	Retail Bakeries	500 employees	8596	1,000 employees	8605	9
311812	Commercial Bakeries	1,000 employees	2391	1,000 employees	2391	0
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing	750 employees	173	1,000 employees	177	4
311821	Cookie and Cracker Manufacturing	1,250 employees	361	1,250 employees	361	0
311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour	850 employees	302	1,250 employees	308	6
311830	Tortilla Manufacturing	1,250 employees	380	1,350 employees	380	0
311911	Roasted Nuts and Peanut Butter Manufacturing	750 employees	211	1,250 employees	211	0
311919	Other Snack Food Manufacturing	1,250 employees	382	1,250 employees	382	0
311920	Coffee and Tea Manufacturing	1,000 employees	1000	1,250 employees	1000	0
311930	Flavoring Syrup and Concentrate Manufacturing	1,100 employees	138	1,250 employees	138	0
311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing	850 employees	321	1,250 employees	323	2
311942	Spice and Extract Manufacturing	650 employees	376	1,250 employees	385	9
311991	Perishable Prepared Food Manufacturing	700 employees	793	1,250 employees	810	17
311999	All Other Miscellaneous Food Manufacturing	700 employees	732	1,250 employees	741	9

312111	Soft Drink Manufacturing	1,400 employees	364	1,400 employees	364	0
312112	Bottled Water Manufacturing	1,100 employees	203	1,400 employees	203	0
312113	Ice Manufacturing	750 employees	248	1,400 employees	248	0
312120	Breweries	1,000 employees	4912	1,400 employees	4913	1
312130	Wineries	1,100 employees	4273	1,400 employees	4276	3
312140	Distilleries	1,500 employees	1217	1,400 employees	1217	0
312230	Tobacco Manufacturing	1,250 employees	106	1,500 employees	106	0
313110	Fiber, Yarn, and Thread Mills	1,000 employees	198	1,250 employees	198	0
313210	Broadwoven Fabric Mills	550 employees	214	1,300 employees	216	2
313220	Narrow Fabric Mills and Schiffli Machine Embroidery	850 employees	165	750 employees	165	0
313230	Nonwoven Fabric Mills	500 employees	168	1,350 employees	168	0
313240	Knit Fabric Mills	1,000 employees	101	750 employees	101	0
313310	Textile and Fabric Finishing Mills	1,000 employees	563	1,400 employees	566	3
313320	Fabric Coating Mills	1,500 employees	133	1,400 employees	135	2
314110	Carpet and Rug Mills	750 employees	168	1,550 employees	168	0
314120	Curtain and Linen Mills	500 employees	1090	800 employees	1091	1
314910	Textile Bag and Canvas Mills	1,000 employees	1328	1,000 employees	1332	4
314994	Rope, Cordage, Twine, Tire Cord, and Tire Fabric Mills	550 employees	114	1,000 employees	114	0
314999	All Other Miscellaneous Textile Product Mills	850 employees	2244	1,000 employees	2244	0
315120	Apparel Knitting Mills	750 employees	182	1,950 employees	182	0
315210	Cut and Sew Apparel Contractors	750 employees	2291	2,650 employees	2291	0
315250	Cut and Sew Apparel Manufacturing (except Contractors)	600 employees	1458	2,650 employees	1458	0
315990	Apparel Accessories and Other Apparel Manufacturing	800 employees	692	1,050 employees	694	2
316110	Leather and Hide Tanning and Finishing	1,000 employees	153	900 employees	153	0
316210	Footwear Manufacturing	500 employees	203	1,550 employees	203	0
316990	Other Leather and Allied Product Manufacturing	550 employees	668	1,250 employees	672	4
321113	Sawmills	550 employees	2295	2,050 employees	2326	31
321114	Wood Preservation	600 employees	237	2,050 employees	242	5
321211	Hardwood Veneer and Plywood Manufacturing	1,250 employees	168	1,250 employees	168	0
321212	Softwood Veneer and Plywood Manufacturing	500 employees	37	1,250 employees	37	0
321215	Engineered Wood Member Manufacturing	750 employees	655	1,250 employees	658	3
321219	Reconstituted Wood Product Manufacturing	1,000 employees	106	1,250 employees	108	2
321911	Wood Window and Door Manufacturing	500 employees	891	1,500 employees	895	4
321912	Cut Stock, Resawing Lumber, and Planing	500 employees	607	1,500 employees	623	16
321918	Other Millwork (including Flooring)	500 employees	1364	1,500 employees	1380	16
321920	Wood Container and Pallet Manufacturing	1,250 employees	2342	1,500 employees	2354	12
321991	Manufactured Home (Mobile Home) Manufacturing	500 employees	155	1,500 employees	155	0
321992	Prefabricated Wood Building Manufacturing	500 employees	639	1,500 employees	645	6
321999	All Other Miscellaneous Wood Product Manufacturing	1,050 employees	2189	1,500 employees	2202	13
322110	Pulp Mills	1,250 employees	16	1,500 employees	16	0
322120	Paper Mills	1,250 employees	104	1,500 employees	104	0
322130	Paperboard Mills	1,250 employees	52	1,500 employees	55	3
322211	Corrugated and Solid Fiber Box Manufacturing	1,250 employees	537	1,850 employees	543	6

322212	Folding Paperboard Box Manufacturing	750 employees	259	1,850 employees	269	10
322219	Other Paperboard Container Manufacturing	1,000 employees	134	1,850 employees	134	0
322220	Treated Paper Manufacturing	750 employees	448	1,850 employees	473	25
322230	Stationery Product Manufacturing	750 employees	249	1,850 employees	252	3
322291	Sanitary Paper Product Manufacturing	1,500 employees	82	1,850 employees	84	2
322299	All Other Converted Paper Product Manufacturing	500 employees	269	1,850 employees	284	15
323111	Commercial Printing (except Screen and Books)	650 employees	14215	1,250 employees	14259	44
323113	Commercial Screen Printing	500 employees	5692	1,250 employees	5707	15
323117	Books Printing	1,250 employees	345	1,250 employees	345	0
323120	Support Activities for Printing	550 employees	946	1,250 employees	946	0
324110	Petroleum Refineries	1,500 employees	43	1,500 employees	43	0
324121	Asphalt Paving Mixture and Block Manufacturing	500 employees	410	1,500 employees	435	25
324122	Asphalt Shingle and Coating Materials Manufacturing	1,100 employees	90	1,500 employees	90	0
324191	Petroleum Lubricating Oil and Grease Manufacturing	900 employees	185	1,500 employees	189	4
324199	All Other Petroleum and Coal Products Manufacturing	950 employees	45	1,500 employees	45	0
325110	Petrochemical Manufacturing	1,300 employees	25	1,400 employees	25	0
325120	Industrial Gas Manufacturing	1,200 employees	79	1,400 employees	79	0
325130	Synthetic Dye and Pigment Manufacturing	1,050 employees	92	1,400 employees	92	0
325180	Other Basic Inorganic Chemical Manufacturing	1,000 employees	306	1,400 employees	313	7
325193	Ethyl Alcohol Manufacturing	1,000 employees	103	1,400 employees	103	0
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	1,250 employees	31	1,400 employees	32	1
325199	All Other Basic Organic Chemical Manufacturing	1,250 employees	486	1,400 employees	492	6
325211	Plastics Material and Resin Manufacturing	1,250 employees	838	1,250 employees	838	0
325212	Synthetic Rubber Manufacturing	1,000 employees	104	1,250 employees	104	0
325220	Artificial and Synthetic Fibers and Filaments Manufacturing	1,050 employees	82	1,250 employees	82	0
325311	Nitrogenous Fertilizer Manufacturing	1,050 employees	148	1,350 employees	150	2
325312	Phosphatic Fertilizer Manufacturing	1,350 employees	37	1,350 employees	37	0
325314	Fertilizer (Mixing Only) Manufacturing	550 employees	368	1,350 employees	371	3
325315	Compost Manufacturing	1,150 employees	177	1,350 employees	179	2
325320	Pesticide and Other Agricultural Chemical Manufacturing	1,000 employees	677	2,350 employees	687	10
325411	Medicinal and Botanical Manufacturing	1,300 employees	1099	2,350 employees	1119	20
325412	Pharmaceutical Preparation Manufacturing	1,250 employees	176	2,350 employees	182	6
325413	In-Vitro Diagnostic Substance Manufacturing	1,250 employees	249	2,350 employees	255	6
325414	Biological Product (except Diagnostic) Manufacturing	1,000 employees	919	1,200 employees	921	2
325510	Paint and Coating Manufacturing	550 employees	323	1,200 employees	339	16
325520	Adhesive Manufacturing	1,100 employees	725	1,250 employees	725	0
325611	Soap and Other Detergent Manufacturing	900 employees	392	1,250 employees	396	4
325612	Polish and Other Sanitation Good Manufacturing	1,100 employees	75	1,250 employees	76	1
325613	Surface Active Agent Manufacturing	1,250 employees	1030	1,250 employees	1030	0
325620	Toilet Preparation Manufacturing	750 employees	148	1,500 employees	148	0
325910	Printing Ink Manufacturing	750 employees	42	1,500 employees	46	4
325920	Explosives Manufacturing	600 employees	298	1,500 employees	315	17
325991	Custom Compounding of Purchased Resins	employees				

325992	Photographic Film, Paper, Plate, Chemical, and Copy Toner Manufacturing	1,500 employees	127	1,500 employees	127	0
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing	650 employees	1028	1,500 employees	1059	31
326111	Plastics Bag and Pouch Manufacturing	750 employees	237	2,450 employees	246	9
326112	Plastics Packaging Film and Sheet (including Laminated) Manufacturing	1,000 employees	280	2,450 employees	297	17
326113	Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing	750 employees	289	2,450 employees	306	17
326121	Unlaminated Plastics Profile Shape Manufacturing	600 employees	259	2,450 employees	267	8
326122	Plastics Pipe and Pipe Fitting Manufacturing	750 employees	217	2,450 employees	228	11
326130	Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing	650 employees	180	2,450 employees	190	10
326140	Polystyrene Foam Product Manufacturing	1,000 employees	266	2,450 employees	274	8
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing	750 employees	405	2,450 employees	425	20
326160	Plastics Bottle Manufacturing	1,250 employees	170	2,450 employees	170	0
326191	Plastics Plumbing Fixture Manufacturing	750 employees	255	2,450 employees	258	3
326199	All Other Plastics Product Manufacturing	750 employees	4264	2,450 employees	4417	153
326211	Tire Manufacturing (except Retreading)	1,500 employees	65	1,700 employees	66	1
326212	Tire Retreading	500 employees	207	1,700 employees	220	13
326220	Rubber and Plastics Hoses and Belting Manufacturing	800 employees	177	1,700 employees	183	6
326291	Rubber Product Manufacturing for Mechanical Use	750 employees	289	1,700 employees	293	4
326299	All Other Rubber Product Manufacturing	650 employees	485	1,700 employees	501	16
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing	1,000 employees	537	1,000 employees	537	0
327120	Clay Building Material and Refractories Manufacturing	750 employees	299	1,000 employees	303	4
327211	Flat Glass Manufacturing	1,100 employees	81	1,250 employees	81	0
327212	Other Pressed and Blown Glass and Glassware Manufacturing	1,250 employees	352	1,250 employees	352	0
327213	Glass Container Manufacturing	1,250 employees	28	1,250 employees	28	0
327215	Glass Product Manufacturing Made of Purchased Glass	1,000 employees	811	1,250 employees	813	2
327310	Cement Manufacturing	1,000 employees	69	1,000 employees	69	0
327320	Ready-Mix Concrete Manufacturing	500 employees	1882	550 employees	1885	3
327331	Concrete Block and Brick Manufacturing	500 employees	352	750 employees	352	0
327332	Concrete Pipe Manufacturing	500 employees	66	750 employees	66	0
327390	Other Concrete Product Manufacturing	500 employees	1382	550 employees	1384	2
327410	Lime Manufacturing	1,050 employees	21	1,050 employees	21	0
327420	Gypsum Product Manufacturing	1,500 employees	93	1,500 employees	93	0
327910	Abrasive Product Manufacturing	900 employees	212	1,500 employees	212	0
327991	Cut Stone and Stone Product Manufacturing	500 employees	2005	1,500 employees	2018	13
327992	Ground or Treated Mineral and Earth Manufacturing	600 employees	112	1,500 employees	119	7
327993	Mineral Wool Manufacturing	1,500 employees	132	1,500 employees	132	0
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	750 employees	247	1,500 employees	250	3
331110	Iron and Steel Mills and Ferroalloy Manufacturing	1,500 employees	175	1,700 employees	178	3
331210	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel	1,000 employees	146	1,300 employees	149	3
331221	Rolled Steel Shape Manufacturing	1,000 employees	156	1,200 employees	157	1

331222	Steel Wire Drawing	1,000 employees	139	1,200 employees	142	3
331313	Alumina Refining and Primary Aluminum Production	1,300 employees	23	1,450 employees	23	0
331314	Secondary Smelting and Alloying of Aluminum	750 employees	55	1,450 employees	55	0
331315	Aluminum Sheet, Plate, and Foil Manufacturing	1,400 employees	41	1,450 employees	41	0
331318	Other Aluminum Rolling, Drawing, and Extruding	750 employees	135	1,450 employees	147	12
331410	Nonferrous Metal (except Aluminum) Smelting and Refining	1,000 employees	84	1,900 employees	84	0
331420	Copper Rolling, Drawing, Extruding, and Alloying	1,050 employees	118	1,900 employees	124	6
331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing, and Extruding	900 employees	165	1,900 employees	171	6
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	850 employees	139	1,900 employees	139	0
331511	Iron Foundries	1,000 employees	212	1,200 employees	214	2
331512	Steel Investment Foundries	1,050 employees	77	1,200 employees	77	0
331513	Steel Foundries (except Investment)	700 employees	119	1,200 employees	120	1
331523	Nonferrous Metal Die-Casting Foundries	700 employees	259	1,200 employees	263	4
331524	Aluminum Foundries (except Die-Casting)	550 employees	234	1,200 employees	236	2
331529	Other Nonferrous Metal Foundries (except Die-Casting)	500 employees	210	1,200 employees	210	0
332111	Iron and Steel Forging	750 employees	180	1,500 employees	189	9
332112	Nonferrous Forging	950 employees	35	1,500 employees	35	0
332114	Custom Roll Forming	600 employees	302	1,500 employees	313	11
332117	Powder Metallurgy Part Manufacturing	550 employees	110	1,500 employees	110	0
332119	Metal Crown, Closure, and Other Metal Stamping (except Automotive)	500 employees	994	1,500 employees	1019	25
332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing	1,000 employees	192	1,250 employees	194	2
332216	Saw Blade and Handtool Manufacturing	750 employees	721	1,250 employees	721	0
332311	Prefabricated Metal Building and Component Manufacturing	750 employees	695	950 employees	697	2
332312	Fabricated Structural Metal Manufacturing	500 employees	3013	950 employees	3036	23
332313	Plate Work Manufacturing	750 employees	1592	950 employees	1598	6
332321	Metal Window and Door Manufacturing	750 employees	814	950 employees	820	6
332322	Sheet Metal Work Manufacturing	500 employees	4155	950 employees	4182	27
332323	Ornamental and Architectural Metal Work Manufacturing	750 employees	2713	950 employees	2722	9
332410	Power Boiler and Heat Exchanger Manufacturing	750 employees	170	1,500 employees	173	3
332420	Metal Tank (Heavy Gauge) Manufacturing	750 employees	559	1,500 employees	574	15
332431	Metal Can Manufacturing	1,500 employees	50	1,500 employees	50	0
332439	Other Metal Container Manufacturing	600 employees	226	1,500 employees	226	0
332510	Hardware Manufacturing	750 employees	471	1,200 employees	475	4
332613	Spring Manufacturing	600 employees	264	1,200 employees	264	0
332618	Other Fabricated Wire Product Manufacturing	500 employees	565	1,200 employees	577	12
332710	Machine Shops	500 employees	16991	1,900 employees	17068	77
332721	Precision Turned Product Manufacturing	500 employees	3698	1,900 employees	3737	39
332722	Bolt, Nut, Screw, Rivet, and Washer Manufacturing	600 employees	554	1,900 employees	565	11
332811	Metal Heat Treating	750 employees	541	1,500 employees	544	3
332812	Metal Coating, Engraving (except Jewelry and Silverware),	600 employees	2373	1,500 employees	2395	22

	and Allied Services to Manufacturers					
332813	Electroplating, Plating, Polishing, Anodizing, and Coloring	500 employees	1862	1,500 employees	1879	17
332911	Industrial Valve Manufacturing	750 employees	320	1,500 employees	330	10
332912	Fluid Power Valve and Hose Fitting Manufacturing	1,000 employees	238	1,500 employees	244	6
332913	Plumbing Fixture Fitting and Trim Manufacturing	1,000 employees	102	1,500 employees	102	0
332919	Other Metal Valve and Pipe Fitting Manufacturing	750 employees	173	1,500 employees	176	3
332991	Ball and Roller Bearing Manufacturing	1,250 employees	99	1,500 employees	99	0
332992	Small Arms Ammunition Manufacturing	1,300 employees	155	1,500 employees	155	0
332993	Ammunition (except Small Arms) Manufacturing	1,500 employees	38	1,500 employees	38	0
332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing	1,000 employees	485	1,500 employees	485	0
332996	Fabricated Pipe and Pipe Fitting Manufacturing	550 employees	604	1,500 employees	620	16
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	750 employees	3239	1,500 employees	3251	12
333111	Farm Machinery and Equipment Manufacturing	1,250 employees	1002	2,550 employees	1009	7
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing	1,500 employees	122	2,550 employees	122	0
333120	Construction Machinery Manufacturing	1,250 employees	541	2,550 employees	549	8
333131	Mining Machinery and Equipment Manufacturing	900 employees	214	2,550 employees	224	10
333132	Oil and Gas Field Machinery and Equipment Manufacturing	1,250 employees	484	2,550 employees	489	5
333241	Food Product Machinery Manufacturing	500 employees	441	1,500 employees	450	9
333242	Semiconductor Machinery Manufacturing	1,500 employees	143	1,500 employees	143	0
333243	Sawmill, Woodworking, and Paper Machinery Manufacturing	550 employees	326	1,500 employees	329	3
333248	All Other Industrial Machinery Manufacturing	750 employees	1696	1,500 employees	1713	17
333310	Commercial and Service Industry Machinery Manufacturing	1,000 employees	1490	1,000 employees	1490	0
333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing	500 employees	355	1,250 employees	368	13
333414	Heating Equipment (except Warm Air Furnaces) Manufacturing	500 employees	301	1,250 employees	307	6
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	1,250 employees	615	1,250 employees	615	0
333511	Industrial Mold Manufacturing	500 employees	1184	1,800 employees	1208	24
333514	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing	500 employees	1896	1,800 employees	1931	35
333515	Cutting Tool and Machine Tool Accessory Manufacturing	500 employees	992	1,800 employees	1000	8
333517	Machine Tool Manufacturing	500 employees	1121	1,800 employees	1145	24
333519	Rolling Mill and Other Metalworking Machinery Manufacturing	500 employees	272	1,800 employees	275	3
333611	Turbine and Turbine Generator Set Units Manufacturing	1,500 employees	145	1,500 employees	145	0
333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing	750 employees	153	1,500 employees	153	0
333613	Mechanical Power Transmission Equipment Manufacturing	750 employees	158	1,500 employees	162	4
333618	Other Engine Equipment Manufacturing	1,500 employees	197	1,500 employees	197	0
333912	Air and Gas Compressor Manufacturing	1,000 employees	217	2,200 employees	223	6
333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing	750 employees	373	2,200 employees	390	17
333921	Elevator and Moving Stairway Manufacturing	1,000 employees	157	2,200 employees	157	0
333922	Conveyor and Conveying Equipment Manufacturing	500 employees	656	2,200 employees	679	23

333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing	1,250 employees	252	2,200 employees	255	3
333924	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing	900 employees	277	2,200 employees	286	9
333991	Power-Driven Handtool Manufacturing	950 employees	98	2,200 employees	98	0
333992	Welding and Soldering Equipment Manufacturing	1,250 employees	486	2,200 employees	486	0
333993	Packaging Machinery Manufacturing	600 employees	424	2,200 employees	431	7
333994	Industrial Process Furnace and Oven Manufacturing	500 employees	270	2,200 employees	270	0
333995	Fluid Power Cylinder and Actuator Manufacturing	800 employees	204	2,200 employees	211	7
333996	Fluid Power Pump and Motor Manufacturing	1,250 employees	106	2,200 employees	109	3
333998	All Other Miscellaneous General Purpose Machinery Manufacturing	700 employees	1290	2,200 employees	1326	36
334111	Electronic Computer Manufacturing	1,250 employees	198	2,500 employees	203	5
334112	Computer Storage Device Manufacturing	1,250 employees	51	2,500 employees	51	0
334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing	1,000 employees	264	2,500 employees	278	14
334210	Telephone Apparatus Manufacturing	1,250 employees	142	2,250 employees	142	0
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	1,250 employees	557	2,250 employees	563	6
334290	Other Communications Equipment Manufacturing	800 employees	307	2,250 employees	307	0
334310	Audio and Video Equipment Manufacturing	750 employees	515	2,100 employees	519	4
334412	Bare Printed Circuit Board Manufacturing	750 employees	334	2,800 employees	340	6
334413	Semiconductor and Related Device Manufacturing	1,250 employees	631	2,800 employees	649	18
334416	Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing	550 employees	270	2,800 employees	279	9
334417	Electronic Connector Manufacturing	1,000 employees	147	2,800 employees	147	0
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing	750 employees	740	2,800 employees	757	17
334419	Other Electronic Component Manufacturing	750 employees	918	2,800 employees	943	25
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	1,250 employees	713	2,000 employees	725	12
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	1,350 employees	333	2,000 employees	337	4
334512	Automatic Environmental Control Manufacturing for Residential, Commercial, and Appliance Use	650 employees	202	2,000 employees	205	3
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables	750 employees	734	2,000 employees	751	17
334514	Totalizing Fluid Meter and Counting Device Manufacturing	850 employees	135	2,000 employees	135	0
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals	750 employees	584	2,000 employees	597	13
334516	Analytical Laboratory Instrument Manufacturing	1,000 employees	504	2,000 employees	512	8
334517	Irradiation Apparatus Manufacturing	1,200 employees	97	2,000 employees	100	3
334519	Other Measuring and Controlling Device Manufacturing	600 employees	744	2,000 employees	764	20
334610	Manufacturing and Reproducing Magnetic and Optical Media	1,250 employees	309	1,250 employees	309	0
335131	Residential Electric Lighting Fixture Manufacturing	750 employees	233	1,250 employees	233	0
335132	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing	600 employees	382	1,250 employees	384	2

	Electric Lamp Bulb and Other Lighting Equipment	1,250 employees				
335139	Manufacturing	employees	300	1,250 employees	300	0
	Small Electrical Appliance	1,500 employees				
335210	Manufacturing	employees	147	1,500 employees	147	0
	Major Household Appliance	1,500 employees				
335220	Manufacturing	employees	129	1,500 employees	129	0
	Power, Distribution, and Specialty Transformer	800 employees				
335311	Manufacturing	employees	180	1,550 employees	187	7
	Motor and Generator	1,250 employees				
335312	Manufacturing	employees	314	1,550 employees	316	2
	Switchgear and Switchboard	1,250 employees				
335313	Apparatus Manufacturing	employees	372	1,550 employees	372	0
	Relay and Industrial Control	750 employees				
335314	Manufacturing	employees	609	1,550 employees	620	11
		1,250 employees				
335910	Battery Manufacturing	employees	217	1,250 employees	217	0
		1,000 employees				
335921	Fiber Optic Cable Manufacturing	employees	98	1,250 employees	98	0
	Other Communication and	1,000 employees				
335929	Energy Wire Manufacturing	employees	159	1,250 employees	159	0
	Current-Carrying Wiring Device	600 employees				
335931	Manufacturing	employees	309	1,250 employees	314	5
	Noncurrent-Carrying Wiring	1,000 employees				
335932	Device Manufacturing	employees	93	1,250 employees	93	0
	Carbon and Graphite Product	900 employees				
335991	Manufacturing	employees	133	1,250 employees	133	0
	All Other Miscellaneous Electrical Equipment and	600 employees				
335999	Component Manufacturing	employees	687	1,250 employees	700	13
	Automobile and Light Duty	1,500 employees				
336110	Motor Vehicle Manufacturing	employees	174	3,050 employees	175	1
	Heavy Duty Truck	1,500 employees				
336120	Manufacturing	employees	59	3,050 employees	64	5
	Motor Vehicle Body	1,000 employees				
336211	Manufacturing	employees	604	1,650 employees	614	10
		1,000 employees				
336212	Truck Trailer Manufacturing	employees	446	1,650 employees	454	8
		1,250 employees				
336213	Motor Home Manufacturing	employees	56	1,650 employees	56	0
	Travel Trailer and Camper	1,000 employees				
336214	Manufacturing	employees	574	1,650 employees	578	4
	Motor Vehicle Gasoline Engine	1,050 employees				
336310	and Engine Parts Manufacturing	employees	590	3,500 employees	609	19
	Motor Vehicle Electrical and					
	Electronic Equipment	1,000 employees				
336320	Manufacturing	employees	454	3,500 employees	473	19
	Motor Vehicle Steering and					
	Suspension Components (except	1,000 employees				
336330	Spring) Manufacturing	employees	197	3,500 employees	212	15
	Motor Vehicle Brake System	1,250 employees				
336340	Manufacturing	employees	116	3,500 employees	122	6
	Motor Vehicle Transmission and	1,500 employees				
336350	Power Train Parts Manufacturing	employees	328	3,500 employees	336	8
	Motor Vehicle Seating and	1,500 employees				
336360	Interior Trim Manufacturing	employees	268	3,500 employees	287	19
		1,000 employees				
336370	Motor Vehicle Metal Stamping	employees	501	3,500 employees	523	22
	Other Motor Vehicle Parts	1,000 employees				
336390	Manufacturing	employees	996	3,500 employees	1050	54
		1,500 employees				
336411	Aircraft Manufacturing	employees	281	2,800 employees	292	11
	Aircraft Engine and Engine Parts	1,500 employees				
336412	Manufacturing	employees	262	2,800 employees	271	9
	Other Aircraft Parts and					
	Auxiliary Equipment	1,250 employees				
336413	Manufacturing	employees	676	2,800 employees	693	17
	Guided Missile and Space	1,300 employees				
336414	Vehicle Manufacturing	employees	22	2,800 employees	22	0
	Guided Missile and Space					
	Vehicle Propulsion Unit and					
	Propulsion Unit Parts	1,250 employees				
336415	Manufacturing	employees	11	2,800 employees	11	0
	Other Guided Missile and Space					
	Vehicle Parts and Auxiliary	1,050 employees				
336419	Equipment Manufacturing	employees	21	2,800 employees	21	0
	Railroad Rolling Stock	1,500 employees				
336510	Manufacturing	employees	110	1,500 employees	110	0
		1,300 employees				
336611	Ship Building and Repairing	employees	386	2,300 employees	391	5
		1,000 employees				
336612	Boat Building	employees	829	2,300 employees	833	4
	Motorcycle, Bicycle, and Parts	1,050 employees				
336991	Manufacturing	employees	416	1,500 employees	416	0

	Military Armored Vehicle, Tank, and Tank Component	1,500				
336992	Manufacturing	employees	48	1,500 employees	48	0
	All Other Transportation	1,000				
336999	Equipment Manufacturing	employees	434	1,500 employees	434	0
	Wood Kitchen Cabinet and	750				
337110	Countertop Manufacturing	employees	5993	1,700 employees	6006	13
	Upholstered Household Furniture	1,000				
337121	Manufacturing	employees	883	1,700 employees	890	7
	Nonupholstered Wood					
	Household Furniture	750				
337122	Manufacturing	employees	2091	1,700 employees	2094	3
	Household Furniture (except					
	Wood and Upholstered)	950				
337126	Manufacturing	employees	394	1,700 employees	394	0
	Institutional Furniture	500				
337127	Manufacturing	employees	488	1,700 employees	494	6
	Wood Office Furniture	1,000				
337211	Manufacturing	employees	281	1,550 employees	281	0
	Custom Architectural Woodwork	500				
337212	and Millwork Manufacturing	employees	2276	1,550 employees	2289	13
	Office Furniture (except Wood)	1,100				
337214	Manufacturing	employees	176	1,550 employees	176	0
	Showcase, Partition, Shelving,	500				
337215	and Locker Manufacturing	employees	742	1,550 employees	763	21
		1,000				
337910	Mattress Manufacturing	employees	312	1,000 employees	312	0
		1,000				
337920	Blind and Shade Manufacturing	employees	292	1,000 employees	292	0
	Surgical and Medical Instrument	1,000				
339112	Manufacturing	employees	1030	1,600 employees	1043	13
	Surgical Appliance and Supplies	800				
339113	Manufacturing	employees	1541	1,600 employees	1556	15
	Dental Equipment and Supplies	750				
339114	Manufacturing	employees	454	1,600 employees	454	0
	Ophthalmic Goods	1,000				
339115	Manufacturing	employees	284	1,600 employees	284	0
		500				
339116	Dental Laboratories	employees	4551	1,600 employees	4555	4
	Jewelry and Silverware	700				
339910	Manufacturing	employees	1848	1,000 employees	1848	0
	Sporting and Athletic Goods	750				
339920	Manufacturing	employees	1587	1,000 employees	1589	2
	Doll, Toy, and Game	700				
339930	Manufacturing	employees	492	1,000 employees	492	0
	Office Supplies (except Paper)	750				
339940	Manufacturing	employees	346	1,000 employees	346	0
		500				
339950	Sign Manufacturing	employees	5713	1,000 employees	5725	12
	Gasket, Packing, and Sealing	600				
339991	Device Manufacturing	employees	421	1,000 employees	429	8
	Musical Instrument	1,000				
339992	Manufacturing	employees	588	1,000 employees	588	0
	Fastener, Button, Needle, and Pin	750				
339993	Manufacturing	employees	83	1,000 employees	83	0
	Broom, Brush, and Mop	750				
339994	Manufacturing	employees	132	1,000 employees	132	0
		1,000				
339995	Burial Casket Manufacturing	employees	67	1,000 employees	67	0
	All Other Miscellaneous	550				
339999	Manufacturing	employees	3003	1,000 employees	3016	13
	Automobile and Other Motor	250				
423110	Vehicle Merchant Wholesalers	employees	4329	900 employees	4427	98
	Motor Vehicle Supplies and New	200				
423120	Parts Merchant Wholesalers	employees	7042	900 employees	7250	208
	Tire and Tube Merchant	200				
423130	Wholesalers	employees	1047	900 employees	1099	52
	Motor Vehicle Parts (Used)	125				
423140	Merchant Wholesalers	employees	1351	900 employees	1378	27
		100				
423210	Furniture Merchant Wholesalers	employees	4331	900 employees	4489	158
	Home Furnishing Merchant	100				
423220	Wholesalers	employees	5206	900 employees	5437	231
	Lumber, Plywood, Millwork, and					
	Wood Panel Merchant	150				
423310	Wholesalers	employees	4281	550 employees	4434	153
	Brick, Stone, and Related					
	Construction Material Merchant	150				
423320	Wholesalers	employees	2219	550 employees	2290	71
	Roofing, Siding, and Insulation	225				
423330	Material Merchant Wholesalers	employees	815	550 employees	835	20
	Other Construction Material	100				
423390	Merchant Wholesalers	employees	2475	550 employees	2603	128
	Photographic Equipment and	200				
423410	Supplies Merchant Wholesalers	employees	429	1,000 employees	437	8
	Office Equipment Merchant	200				
423420	Wholesalers	employees	1849	1,000 employees	1893	44

	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	250 employees	4909	1,000 employees	5015	106
423430	Other Commercial Equipment Merchant Wholesalers	100 employees				
423440	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	200 employees	8199	1,000 employees	8319	120
423450	Ophthalmic Goods Merchant Wholesalers	175 employees	787	1,000 employees	803	16
423460	Other Professional Equipment and Supplies Merchant Wholesalers	150 employees	1849	1,000 employees	1901	52
423490	Metal Service Centers and Other Metal Merchant Wholesalers	200 employees	5958	1,050 employees	6137	179
423510	Coal and Other Mineral and Ore Merchant Wholesalers	200 employees	250	1,050 employees	254	4
423520	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	200 employees	6908	1,000 employees	7092	184
423610	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers	225 employees	2011	1,000 employees	2055	44
423620	Other Electronic Parts and Equipment Merchant Wholesalers	250 employees	7568	1,000 employees	7704	136
423690	Hardware Merchant Wholesalers	150 employees	4119	550 employees	4219	100
423710	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	200 employees	2396	550 employees	2463	67
423720	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	175 employees	1924	550 employees	2012	88
423730	Refrigeration Equipment and Supplies Merchant Wholesalers	125 employees	575	550 employees	601	26
423740	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	250 employees	2437	1,200 employees	2532	95
423810	Farm and Garden Machinery and Equipment Merchant Wholesalers	125 employees	4212	1,200 employees	4429	217
423820	Industrial Machinery and Equipment Merchant Wholesalers	100 employees	18533	1,200 employees	19390	857
423830	Industrial Supplies Merchant Wholesalers	125 employees	5442	1,200 employees	5694	252
423840	Service Establishment Equipment and Supplies Merchant Wholesalers	125 employees	2888	1,200 employees	2968	80
423850	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers	175 employees	1970	1,200 employees	2018	48
423860	Sporting and Recreational Goods and Supplies Merchant Wholesalers	100 employees	4449	700 employees	4593	144
423910	Toy and Hobby Goods and Supplies Merchant Wholesalers	175 employees	1838	700 employees	1876	38
423920	Recyclable Material Merchant Wholesalers	125 employees	6090	700 employees	6224	134
423930	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers	125 employees	6688	700 employees	6728	40
423940	Other Miscellaneous Durable Goods Merchant Wholesalers	100 employees	8700	700 employees	8869	169
423990	Printing and Writing Paper Merchant Wholesalers	225 employees	451	1,100 employees	465	14
424110	Stationery and Office Supplies Merchant Wholesalers	150 employees	2311	1,100 employees	2362	51
424120	Industrial and Personal Service Paper Merchant Wholesalers	150 employees	2948	1,100 employees	3046	98
424130	Drugs and Druggists' Sundries Merchant Wholesalers	250 employees	6703	1,800 employees	6885	182
424210	Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers	100 employees	2564	1,750 employees	2626	62
424310	Footwear Merchant Wholesalers	200 employees	1072	1,750 employees	1099	27
424340	Clothing and Clothing Accessories Merchant Wholesalers	150 employees	8929	1,750 employees	9084	155
424350	General Line Grocery Merchant Wholesalers	250 employees	2532	700 employees	2580	48
424410						

424420	Packaged Frozen Food Merchant Wholesalers	200 employees	2387	700 employees	2442	55
424430	Dairy Product (except Dried or Canned) Merchant Wholesalers	200 employees	1284	700 employees	1311	27
424440	Poultry and Poultry Product Merchant Wholesalers	150 employees	370	700 employees	381	11
424450	Confectionery Merchant Wholesalers	225 employees	1777	700 employees	1796	19
424460	Fish and Seafood Merchant Wholesalers	100 employees	1825	700 employees	1857	32
424470	Meat and Meat Product Merchant Wholesalers	150 employees	1894	700 employees	1938	44
424480	Fresh Fruit and Vegetable Merchant Wholesalers	100 employees	4233	700 employees	4440	207
424490	Other Grocery and Related Products Merchant Wholesalers	250 employees	10362	700 employees	10493	131
424510	Grain and Field Bean Merchant Wholesalers	200 employees	1719	1,800 employees	1815	96
424520	Livestock Merchant Wholesalers	125 employees	548	1,800 employees	557	9
424590	Other Farm Product Raw Material Merchant Wholesalers	175 employees	983	1,800 employees	1004	21
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers	150 employees	1742	750 employees	1807	65
424690	Other Chemical and Allied Products Merchant Wholesalers	175 employees	5197	750 employees	5340	143
424710	Petroleum Bulk Stations and Terminals	225 employees	1766	1,000 employees	1909	143
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	200 employees	1601	1,000 employees	1691	90
424810	Beer and Ale Merchant Wholesalers	200 employees	1240	500 employees	1346	106
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers	250 employees	2166	500 employees	2192	26
424910	Farm Supplies Merchant Wholesalers	200 employees	4712	950 employees	4856	144
424920	Book, Periodical, and Newspaper Merchant Wholesalers	200 employees	989	950 employees	1012	23
424930	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers	100 employees	2936	950 employees	3033	97
424940	Tobacco Product and Electronic Cigarette Merchant Wholesalers	250 employees	1411	950 employees	1434	23
424950	Paint, Varnish, and Supplies Merchant Wholesalers	150 employees	886	950 employees	919	33
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers	100 employees	9862	950 employees	10056	194
425120	Wholesale Trade Agents and Brokers	125 employees	33820	700 employees	34005	185
441110	New Car Dealers	200 employees	15862	500 employees	16405	543
441120	Used Car Dealers	\$30.5 million in receipts	22832	500 employees	23529	697
441210	Recreational Vehicle Dealers	\$40 million in receipts	1992	750 employees	2140	148
441222	Boat Dealers	\$40 million in receipts	3456	750 employees	3538	82
441227	Motorcycle, ATV, and All Other Motor Vehicle Dealers	\$40 million in receipts	5813	750 employees	5949	136
441330	Automotive Parts and Accessories Retailers	\$28.5 million in receipts	14882	500 employees	15073	191
441340	Tire Dealers	\$25.5 million in receipts	10749	500 employees	10891	142
444110	Home Centers	\$47 million in receipts	1469	500 employees	1513	44
444120	Paint and Wallpaper Retailers	\$34 million in receipts	1342	500 employees	1375	33
444140	Hardware Retailers	\$16.5 million in receipts	8982	500 employees	9253	271
444180	Other Building Material Dealers	\$25 million in receipts	19075	500 employees	20136	1061
444230	Outdoor Power Equipment Retailers	\$9.5 million in receipts	3572	750 employees	3837	265
444240	Nursery, Garden Center, and Farm Supply Retailers	\$21.5 million in receipts	8943	750 employees	9327	384
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)	\$40 million in receipts	37777	600 employees	38259	482
445131	Convenience Retailers	\$36.5 million in receipts	34116	600 employees	34176	60
445132	Vending Machine Operators	\$21 million in receipts	2510	600 employees	2559	49
445230	Fruit and Vegetable Retailers	\$9 million in receipts	3705	500 employees	3817	112

445240	Meat Retailers	\$9 million in receipts	4889	500 employees	5050	161
445250	Fish and Seafood Retailers	\$9 million in receipts	1855	500 employees	1925	70
445291	Baked Goods Retailers	\$16 million in receipts	2339	500 employees	2360	21
445292	Confectionery and Nut Retailers	\$19.5 million in receipts	2073	500 employees	2096	23
445298	All Other Specialty Food Retailers	\$10 million in receipts	5110	500 employees	5201	91
445320	Beer, Wine, and Liquor Retailers	\$10 million in receipts	31196	1,050 employees	31792	596
449110	Furniture Retailers	\$25 million in receipts	12430	500 employees	12637	207
449121	Floor Covering Retailers	\$9 million in receipts	7349	500 employees	7827	478
449122	Window Treatment Retailers	\$11.5 million in receipts	1879	500 employees	1898	19
449129	All Other Home Furnishings Retailers	\$33.5 million in receipts	6910	500 employees	6945	35
449210	Electronics and Appliance Retailers	\$40 million in receipts	12380	500 employees	12508	128
455110	Department Stores	\$40 million in receipts	5	500 employees	8	3
455211	Warehouse Clubs and Supercenters	\$47 million in receipts	11	550 employees	16	5
455219	All Other General Merchandise Retailers	\$40 million in receipts	7323	550 employees	7354	31
456110	Pharmacies and Drug Retailers	\$37.5 million in receipts	18440	500 employees	18653	213
456120	Cosmetics, Beauty Supplies, and Perfume Retailers	\$34 million in receipts	7939	500 employees	7960	21
456130	Optical Goods Retailers	\$29.5 million in receipts	3554	500 employees	3573	19
456191	Food (Health) Supplement Retailers	\$22.5 million in receipts	5421	500 employees	5442	21
456199	All Other Health and Personal Care Retailers	\$9.5 million in receipts	5536	500 employees	5814	278
457110	Gasoline Stations with Convenience Stores	\$36.5 million in receipts	51851	1,150 employees	52768	917
457120	Other Gasoline Stations	\$33.5 million in receipts	8232	1,150 employees	8840	608
457210	Fuel Dealers	100 employees	3902	1,900 employees	4065	163
458110	Clothing and Clothing Accessories Retailers	\$47 million in receipts	34003	550 employees	34185	182
458210	Shoe Retailers	\$34 million in receipts	4127	500 employees	4162	35
458310	Jewelry Retailers	\$20.5 million in receipts	13419	500 employees	13613	194
458320	Luggage and Leather Goods Retailers	\$38 million in receipts	305	500 employees	317	12
459110	Sporting Goods Retailers	\$26.5 million in receipts	15247	500 employees	15361	114
459120	Hobby, Toy, and Game Retailers	\$35 million in receipts	5084	500 employees	5094	10
459130	Sewing, Needlework, and Piece Goods Retailers	\$34 million in receipts	2677	500 employees	2683	6
459140	Musical Instrument and Supplies Retailers	\$22.5 million in receipts	2360	500 employees	2372	12
459210	Book Retailers and News Dealers	\$36 million in receipts	3216	500 employees	3233	17
459310	Florists	\$9 million in receipts	11511	500 employees	11561	50
459410	Office Supplies and Stationery Retailers	\$40 million in receipts	1941	500 employees	1950	9
459420	Gift, Novelty, and Souvenir Retailers	\$13.5 million in receipts	14104	500 employees	14239	135
459510	Used Merchandise Retailers	\$14 million in receipts	12596	500 employees	12806	210
459910	Pet and Pet Supplies Retailers	\$32 million in receipts	5073	500 employees	5097	24
459920	Art Dealers	\$16.5 million in receipts	4489	500 employees	4563	74
459930	Manufactured (Mobile) Home Dealers	\$19 million in receipts	1085	500 employees	1144	59
459991	Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers	\$11.5 million in receipts	15774	500 employees	15980	206
459999	All Other Miscellaneous Retailers	\$11.5 million in receipts	88920	500 employees	92878	3958
481111	Scheduled Passenger Air Transportation	1,500 employees	272	1,600 employees	272	0
481112	Scheduled Freight Air Transportation	1,500 employees	201	1,600 employees	201	0
481211	Nonscheduled Chartered Passenger Air Transportation	1,500 employees	1396	1,500 employees	1396	0

481212	Nonscheduled Chartered Freight Air Transportation	1,500 employees	165	1,500 employees	165	0
481219	Other Nonscheduled Air Transportation	\$25 million in receipts	524	1,500 employees	547	23
482111	Line-Haul Railroads	1,500 employees	0	2,300 employees	0	0
482112	Short Line Railroads	1,500 employees	503	2,300 employees	503	0
483111	Deep Sea Freight Transportation	1,050 employees	230	1,500 employees	230	0
483112	Deep Sea Passenger Transportation	1,500 employees	70	1,500 employees	70	0
483113	Coastal and Great Lakes Freight Transportation	800 employees	320	1,500 employees	322	2
483114	Coastal and Great Lakes Passenger Transportation	550 employees	180	1,500 employees	180	0
483211	Inland Water Freight Transportation	1,050 employees	322	1,200 employees	322	0
483212	Inland Water Passenger Transportation	550 employees	270	1,200 employees	270	0
484110	General Freight Trucking, Local	\$34 million in receipts	43186	\$245 million in receipts	43427	241
484121	General Freight Trucking, Long-Distance, Truckload	\$34 million in receipts	55075	\$245 million in receipts	55626	551
484122	General Freight Trucking, Long-Distance, Less Than Truckload	\$43 million in receipts	7061	\$245 million in receipts	7143	82
484210	Used Household and Office Goods Moving	\$34 million in receipts	8995	\$114 million in receipts	9047	52
484220	Specialized Freight (except Used Goods) Trucking, Local	\$34 million in receipts	31081	\$114 million in receipts	31325	244
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	\$34 million in receipts	9841	\$114 million in receipts	10041	200
485111	Mixed Mode Transit Systems	\$29 million in receipts	28	\$71 million in receipts	28	0
485112	Commuter Rail Systems	\$47 million in receipts	5	\$71 million in receipts	5	0
485113	Bus and Other Motor Vehicle Transit Systems	\$32.5 million in receipts	307	\$71 million in receipts	316	9
485119	Other Urban Transit Systems	\$37.5 million in receipts	41	\$71 million in receipts	41	0
485210	Interurban and Rural Bus Transportation	\$32 million in receipts	248	\$92 million in receipts	256	8
485310	Taxi and Ridesharing Services	\$19 million in receipts	3027	\$53 million in receipts	3035	8
485320	Limousine Service	\$19 million in receipts	4122	\$53 million in receipts	4148	26
485410	School and Employee Bus Transportation	\$30 million in receipts	2326	\$31 million in receipts	2329	3
485510	Charter Bus Industry	\$19 million in receipts	950	\$81 million in receipts	989	39
485991	Special Needs Transportation	\$19 million in receipts	3459	\$121 million in receipts	3540	81
485999	All Other Transit and Ground Passenger Transportation	\$19 million in receipts	1864	\$121 million in receipts	1897	33
486110	Pipeline Transportation of Crude Oil	1,500 employees	52	1,500 employees	52	0
486210	Pipeline Transportation of Natural Gas	\$41.5 million in receipts	54	\$477 million in receipts	86	32
486910	Pipeline Transportation of Refined Petroleum Products	1,500 employees	55	1,500 employees	55	0
486990	All Other Pipeline Transportation	\$46 million in receipts	3	1,500 employees	8	5
487110	Scenic and Sightseeing Transportation, Land	\$20.5 million in receipts	646	\$85 million in receipts	653	7
487210	Scenic and Sightseeing Transportation, Water	\$14 million in receipts	2140	\$157 million in receipts	2169	29
487990	Scenic and Sightseeing Transportation, Other	\$25 million in receipts	215	\$117 million in receipts	222	7
488111	Air Traffic Control	\$40 million in receipts	22	\$285 million in receipts	22	0
488119	Other Airport Operations	\$40 million in receipts	954	\$285 million in receipts	1012	58
488190	Other Support Activities for Air Transportation	\$40 million in receipts	3197	\$285 million in receipts	3289	92
488210	Support Activities for Rail Transportation	\$34 million in receipts	521	\$188 million in receipts	559	38
488310	Port and Harbor Operations	\$47 million in receipts	208	\$671 million in receipts	245	37
488320	Marine Cargo Handling	\$47 million in receipts	216	\$671 million in receipts	260	44
488330	Navigational Services to Shipping	\$47 million in receipts	842	\$671 million in receipts	869	27
488390	Other Support Activities for Water Transportation	\$47 million in receipts	628	\$671 million in receipts	651	23
488410	Motor Vehicle Towing	\$9 million in receipts	10049	\$39 million in receipts	10179	130

488490	Other Support Activities for Road Transportation	\$18 million in receipts	2351	\$39 million in receipts	2393	42
488510	Freight Transportation Arrangement	\$20 million in receipts	14755	\$259 million in receipts	15590	835
488991	Packing and Crating	\$34 million in receipts	1401	\$126 million in receipts	1423	22
488999	All Other Support Activities for Transportation	\$25 million in receipts	648	\$126 million in receipts	657	9
492110	Couriers and Express Delivery Services	1,500 employees	6063	1,500 employees	6063	0
492210	Local Messengers and Local Delivery	\$34 million in receipts	4779	\$153 million in receipts	4804	25
493110	General Warehousing and Storage	\$34 million in receipts	5068	\$174 million in receipts	5754	686
493120	Refrigerated Warehousing and Storage	\$36.5 million in receipts	561	\$174 million in receipts	614	53
493130	Farm Product Warehousing and Storage	\$34 million in receipts	442	\$174 million in receipts	473	31
493190	Other Warehousing and Storage	\$36.5 million in receipts	1026	\$174 million in receipts	1160	134
512110	Motion Picture and Video Production	\$40 million in receipts	16968	2,700 employees	17089	121
512120	Motion Picture and Video Distribution	\$39 million in receipts	455	2,700 employees	470	15
512131	Motion Picture Theaters (except Drive-Ins)	\$47 million in receipts	1776	2,700 employees	1804	28
512132	Drive-In Motion Picture Theaters	\$12.5 million in receipts	214	2,700 employees	218	4
512191	Teleproduction and Other Postproduction Services	\$39 million in receipts	2952	2,700 employees	2977	25
512199	Other Motion Picture and Video Industries	\$28.5 million in receipts	272	2,700 employees	280	8
512230	Music Publishers	900 employees	848	1,200 employees	848	0
512240	Sound Recording Studios	\$11 million in receipts	2052	1,200 employees	2064	12
512250	Record Production and Distribution	900 employees	742	1,200 employees	742	0
512290	Other Sound Recording Industries	\$22.5 million in receipts	547	1,200 employees	550	3
513110	Newspaper Publishers	1,000 employees	3455	2,050 employees	3466	11
513120	Periodical Publishers	1,000 employees	3508	2,050 employees	3516	8
513130	Book Publishers	1,000 employees	2043	2,050 employees	2051	8
513140	Directory and Mailing List Publishers	1,000 employees	384	2,050 employees	384	0
513191	Greeting Card Publishers	1,000 employees	100	2,050 employees	100	0
513199	All Other Publishers	1,000 employees	1311	2,050 employees	1311	0
513210	Software Publishers	\$47 million in receipts	12792	3,600 employees	13533	741
516110	Radio Broadcasting Stations	\$47 million in receipts	2804	\$62 million in receipts	2809	5
516120	Television Broadcasting Stations	\$47 million in receipts	636	\$482 million in receipts	688	52
516210	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers	\$47 million in receipts	7765	\$970 million in receipts	8034	269
517111	Wired Telecommunications Carriers	1,500 employees	3218	1,500 employees	3218	0
517112	Wireless Telecommunications Carriers (except Satellite)	1,500 employees	5150	1,500 employees	5150	0
517121	Telecommunications Resellers	1,500 employees	1674	1,500 employees	1674	0
517122	Agents for Wireless Telecommunications Services					
517410	Satellite Telecommunications	\$44 million in receipts	348	\$172 million in receipts	366	18
517810	All Other Telecommunications	\$40 million in receipts	1590	\$221 million in receipts	1636	46
518210	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	\$40 million in receipts	10419	\$402 million in receipts	11123	704
519210	Libraries and Archives	\$21 million in receipts	1916	2,950 employees	1936	20
519290	Web Search Portals and All Other Information Services	1,000 employees	1117	2,950 employees	1126	9
522110	Commercial Banking	\$850 million in assets	2,934	\$5,031 million in assets	3,700	766
522130	Credit Unions	\$850 million in assets	4,042	\$5,031 million in assets	4,471	429
522180	Savings Institutions and Other Depository Credit Intermediation	\$850 million in assets	357	\$5,031 million in assets	496	139

522210	Credit Card Issuing	\$850 million in assets		\$575 million in receipts		
522220	Sales Financing	\$47 million in receipts	2171	\$575 million in receipts	2332	161
522291	Consumer Lending	\$47 million in receipts	2657	\$575 million in receipts	2755	98
522292	Real Estate Credit	\$47 million in receipts	3297	\$575 million in receipts	3600	303
522299	International, Secondary Market, and All Other Nondepository Credit Intermediation	\$47 million in receipts	4880	\$575 million in receipts	4986	106
522310	Mortgage and Nonmortgage Loan Brokers	\$15 million in receipts	9428	\$530 million in receipts	9599	171
522320	Financial Transactions Processing, Reserve, and Clearinghouse Activities	\$47 million in receipts	3353	\$530 million in receipts	3478	125
522390	Other Activities Related to Credit Intermediation	\$28.5 million in receipts	2842	\$530 million in receipts	2961	119
523150	Investment Banking and Securities Intermediation	\$47 million in receipts	7338	\$867 million in receipts	7634	296
523160	Commodity Contracts Intermediation	\$47 million in receipts	1263	\$867 million in receipts	1320	57
523210	Securities and Commodity Exchanges	\$47 million in receipts	17	\$371 million in receipts	28	11
523910	Miscellaneous Intermediation	\$47 million in receipts	10931	\$1011 million in receipts	11197	266
523940	Portfolio Management and Investment Advice	\$47 million in receipts	44903	\$1011 million in receipts	45761	858
523991	Trust, Fiduciary, and Custody Activities	\$17 million in receipts	2148	\$1011 million in receipts	2232	84
523999	Miscellaneous Financial Investment Activities	\$47 million in receipts	1767	\$1011 million in receipts	1805	38
524113	Direct Life Insurance Carriers	\$47 million in receipts	739	\$842 million in receipts	859	120
524114	Direct Health and Medical Insurance Carriers	\$47 million in receipts	801	\$842 million in receipts	991	190
524126	Direct Property and Casualty Insurance Carriers	1,500 employees	2487	\$842 million in receipts	2484	-3
524127	Direct Title Insurance Carriers	\$47 million in receipts	971	\$842 million in receipts	995	24
524128	Other Direct Insurance (except Life, Health, and Medical) Carriers	\$17 million in receipts	418	\$842 million in receipts	456	38
524130	Reinsurance Carriers	\$47 million in receipts	117	\$842 million in receipts	161	44
524210	Insurance Agencies and Brokerages	\$15 million in receipts	119114	\$214 million in receipts	120092	978
524291	Claims Adjusting	\$25 million in receipts	3791	\$214 million in receipts	3846	55
524292	Pharmacy Benefit Management and Other Third Party Administration of Insurance and Pension Funds	\$45.5 million in receipts	2204	\$214 million in receipts	2326	122
524298	All Other Insurance Related Activities	\$30.5 million in receipts	2561	\$214 million in receipts	2604	43
525110	Pension Funds					
525120	Health and Welfare Funds					
525190	Other Insurance Funds					
525910	Open-End Investment Funds	\$40 million in receipts	308	\$155 million in receipts	321	13
525920	Trusts, Estates, and Agency Accounts					
525990	Other Financial Vehicles	\$40 million in receipts	1501	\$155 million in receipts	1520	19
531110	Lessors of Residential Buildings and Dwellings	\$34 million in receipts	53466	550 employees	53988	522
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	\$34 million in receipts	30571	550 employees	31035	461
531130	Lessors of Miniwarehouses and Self-Storage Units	\$34 million in receipts	8751	550 employees	8792	41
531190	Lessors of Other Real Estate Property	\$34 million in receipts	7145	550 employees	7192	47
531210	Offices of Real Estate Agents and Brokers	\$15 million in receipts	149634	\$163 million in receipts	150720	1086
531311	Residential Property Managers	\$12.5 million in receipts	38874	\$177 million in receipts	39873	999
531312	Nonresidential Property Managers	\$19.5 million in receipts	15462	\$177 million in receipts	15790	328
531320	Offices of Real Estate Appraisers	\$9.5 million in receipts	12771	\$177 million in receipts	12838	67
531390	Other Activities Related to Real Estate	\$19.5 million in receipts	20989	\$177 million in receipts	21166	177
532111	Passenger Car Rental	\$47 million in receipts	2101	\$84 million in receipts	2110	9

532112	Passenger Car Leasing Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	\$47 million in receipts	368	\$84 million in receipts	375	7
532120	Consumer Electronics and Appliances Rental	\$47 million in receipts	1654	\$84 million in receipts	1681	27
532210	Formal Wear and Costume Rental	\$17 million in receipts	447	500 employees	458	11
532281	Video Tape and Disc Rental	\$25 million in receipts	495	500 employees	503	8
532282	Home Health Equipment Rental	\$35 million in receipts	419	500 employees	424	5
532283	Recreational Goods Rental	\$41 million in receipts	444	500 employees	456	12
532284	All Other Consumer Goods Rental	\$9 million in receipts	2716	500 employees	2744	28
532289	General Rental Centers	\$12.5 million in receipts	3968	500 employees	4057	89
532310	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	\$9 million in receipts	1983	\$31 million in receipts	2058	75
532411	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	\$45.5 million in receipts	489	\$299 million in receipts	517	28
532412	Office Machinery and Equipment Rental and Leasing	\$40 million in receipts	2426	\$299 million in receipts	2534	108
532420	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$40 million in receipts	443	\$299 million in receipts	461	18
532490	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	\$40 million in receipts	4739	\$299 million in receipts	4889	150
533110	Offices of Lawyers	\$47 million in receipts	2171	\$186 million in receipts	2255	84
541110	Title Abstract and Settlement Offices	\$15.5 million in receipts	154367	\$248 million in receipts	156371	2004
541191	All Other Legal Services	\$19.5 million in receipts	6637	\$248 million in receipts	6760	123
541199	Offices of Certified Public Accountants	\$20.5 million in receipts	4928	\$248 million in receipts	4970	42
541211	Tax Preparation Services	\$26.5 million in receipts	50602	\$97 million in receipts	50779	177
541213	Payroll Services	\$25 million in receipts	19440	\$97 million in receipts	19447	7
541214	Other Accounting Services	\$39 million in receipts	4262	\$97 million in receipts	4327	65
541219	Architectural Services	\$25 million in receipts	44971	\$97 million in receipts	45155	184
541310	Landscape Architectural Services	\$12.5 million in receipts	20565	\$135 million in receipts	21213	648
541320	Engineering Services	\$9 million in receipts	4925	\$59 million in receipts	5023	98
541330	Drafting Services	\$25.5 million in receipts	43729	\$252 million in receipts	45198	1469
541340	Building Inspection Services	\$9 million in receipts	2924	\$31 million in receipts	2939	15
541350	Geophysical Surveying and Mapping Services	\$11.5 million in receipts	7564	\$36 million in receipts	7589	25
541360	Surveying and Mapping (except Geophysical) Services	\$28.5 million in receipts	937	\$204 million in receipts	955	18
541370	Testing Laboratories and Services	\$19 million in receipts	6797	\$92 million in receipts	6877	80
541380	Interior Design Services	\$19 million in receipts	4897	\$156 million in receipts	5089	192
541410	Industrial Design Services	\$9 million in receipts	15884	\$158 million in receipts	16122	238
541420	Graphic Design Services	\$17 million in receipts	1546	\$158 million in receipts	1577	31
541430	Other Specialized Design Services	\$9 million in receipts	15630	\$158 million in receipts	15778	148
541490	Custom Computer Programming Services	\$13.5 million in receipts	3328	\$158 million in receipts	3374	46
541511	Computer Systems Design Services	\$34 million in receipts	61100	\$531 million in receipts	62443	1343
541512	Computer Facilities Management Services	\$34 million in receipts	48170	\$531 million in receipts	49026	856
541513	Other Computer Related Services	\$37 million in receipts	4706	\$531 million in receipts	4884	178
541519	Administrative Management and General Management Consulting Services	\$34 million in receipts	10390	\$531 million in receipts	10593	203
541611	Human Resources Consulting Services	\$24.5 million in receipts	92178	\$295 million in receipts	93186	1008
541612	Marketing Consulting Services	\$29 million in receipts	7438	\$295 million in receipts	7579	141
541613		\$19 million in receipts	48341	\$295 million in receipts	48916	575

541614	Process, Physical Distribution, and Logistics Consulting Services	\$20 million in receipts	7252	\$295 million in receipts	7537	285
541618	Other Management Consulting Services	\$19 million in receipts	12643	\$295 million in receipts	12726	83
541620	Environmental Consulting Services	\$19 million in receipts	8106	\$295 million in receipts	8311	205
541690	Other Scientific and Technical Consulting Services	\$19 million in receipts	25791	\$295 million in receipts	26181	390
541713	Research and Development in Nanotechnology	1,000 employees	1281	2,800 employees	1326	45
541714	Research and Development in Biotechnology (except Nanobiotechnology)	1,000 employees	4852	2,800 employees	4883	31
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology)	1,000 employees	9599	2,800 employees	9732	133
541720	Research and Development in the Social Sciences and Humanities	\$28 million in receipts	1700	\$246 million in receipts	1763	63
541810	Advertising Agencies	\$25.5 million in receipts	13316	\$543 million in receipts	13630	314
541820	Public Relations Agencies	\$19 million in receipts	7985	\$543 million in receipts	8133	148
541830	Media Buying Agencies	\$32.5 million in receipts	609	\$543 million in receipts	653	44
541840	Media Representatives	\$21 million in receipts	1121	\$543 million in receipts	1155	34
541850	Indoor and Outdoor Display Advertising	\$34.5 million in receipts	2042	\$543 million in receipts	2074	32
541860	Direct Mail Advertising	\$22 million in receipts	1544	\$543 million in receipts	1640	96
541870	Advertising Material Distribution Services	\$28.5 million in receipts	1204	\$543 million in receipts	1231	27
541890	Other Services Related to Advertising	\$19 million in receipts	6190	\$543 million in receipts	6373	183
541910	Marketing Research and Public Opinion Polling	\$22.5 million in receipts	3547	\$61 million in receipts	3620	73
541921	Photography Studios, Portrait	\$16 million in receipts	9659	\$61 million in receipts	9664	5
541922	Commercial Photography	\$9 million in receipts	4864	\$61 million in receipts	4893	29
541930	Translation and Interpretation Services	\$22.5 million in receipts	2636	\$61 million in receipts	2654	18
541940	Veterinary Services	\$10 million in receipts	25981	\$61 million in receipts	26250	269
541990	All Other Professional, Scientific, and Technical Services	\$19.5 million in receipts	21342	\$61 million in receipts	21503	161
551111	Offices of Bank Holding Companies	\$38.5 million in receipts	376	\$265 million in receipts	517	141
551112	Offices of Other Holding Companies	\$45.5 million in receipts	14632	\$265 million in receipts	20267	5635
551114	Corporate, Subsidiary, and Regional Managing Offices					
561110	Office Administrative Services	\$12.5 million in receipts	30513	\$127 million in receipts	32555	2042
561210	Facilities Support Services	\$47 million in receipts	1878	\$156 million in receipts	2000	122
561311	Employment Placement Agencies	\$34 million in receipts	6086	\$150 million in receipts	6190	104
561312	Executive Search Services	\$34 million in receipts	5884	\$150 million in receipts	5924	40
561320	Temporary Help Services	\$34 million in receipts	14598	\$150 million in receipts	15321	723
561330	Professional Employer Organizations	\$41.5 million in receipts	2553	\$150 million in receipts	2742	189
561410	Document Preparation Services	\$19 million in receipts	3050	\$206 million in receipts	3092	42
561421	Telephone Answering Services	\$19 million in receipts	914	\$206 million in receipts	949	35
561422	Telemarketing Bureaus and Other Contact Centers	\$25.5 million in receipts	1887	\$206 million in receipts	2093	206
561431	Private Mail Centers	\$19 million in receipts	4723	\$206 million in receipts	4737	14
561439	Other Business Service Centers (including Copy Shops)	\$26.5 million in receipts	1754	\$206 million in receipts	1791	37
561440	Collection Agencies	\$19.5 million in receipts	2381	\$206 million in receipts	2512	131
561450	Credit Bureaus	\$41 million in receipts	238	\$206 million in receipts	252	14
561491	Repossession Services	\$19 million in receipts	562	\$206 million in receipts	570	8
561492	Court Reporting and Stenotype Services	\$19 million in receipts	2987	\$206 million in receipts	2998	11
561499	All Other Business Support Services	\$21.5 million in receipts	3025	\$206 million in receipts	3120	95

561510	Travel Agencies	\$25 million in receipts	7374	\$254 million in receipts	7447	73
561520	Tour Operators	\$25 million in receipts	2254	\$254 million in receipts	2301	47
561591	Convention and Visitors Bureaus	\$25 million in receipts	860	\$254 million in receipts	881	21
561599	All Other Travel Arrangement and Reservation Services	\$32.5 million in receipts	1411	\$254 million in receipts	1486	75
561611	Investigation and Personal Background Check Services	\$25 million in receipts	3712	\$186 million in receipts	3746	34
561612	Security Guards and Patrol Services	\$29 million in receipts	7532	\$186 million in receipts	7651	119
561613	Armored Car Services	\$43 million in receipts	74	\$186 million in receipts	88	14
561621	Security Systems Services (except Locksmiths)	\$25 million in receipts	5606	\$186 million in receipts	5708	102
561622	Locksmiths	\$25 million in receipts	3882	\$186 million in receipts	3889	7
561710	Exterminating and Pest Control Services	\$17.5 million in receipts	13528	\$58 million in receipts	13580	52
561720	Janitorial Services	\$22 million in receipts	62516	\$58 million in receipts	62754	238
561730	Landscaping Services	\$9.5 million in receipts	113479	\$58 million in receipts	114707	1228
561740	Carpet and Upholstery Cleaning Services	\$8.5 million in receipts	6671	\$58 million in receipts	6720	49
561790	Other Services to Buildings and Dwellings	\$9 million in receipts	17186	\$58 million in receipts	17311	125
561910	Packaging and Labeling Services	\$19.5 million in receipts	1484	\$104 million in receipts	1576	92
561920	Convention and Trade Show Organizers	\$20 million in receipts	5675	\$104 million in receipts	5790	115
561990	All Other Support Services	\$16.5 million in receipts	10430	\$104 million in receipts	10674	244
562111	Solid Waste Collection	\$47 million in receipts	6825	\$47 million in receipts	6825	0
562112	Hazardous Waste Collection	\$47 million in receipts	291	\$47 million in receipts	291	0
562119	Other Waste Collection	\$47 million in receipts	1385	\$47 million in receipts	1385	0
562211	Hazardous Waste Treatment and Disposal	\$47 million in receipts	340	\$178 million in receipts	362	22
562212	Solid Waste Landfill	\$47 million in receipts	661	\$178 million in receipts	680	19
562213	Solid Waste Combustors and Incinerators	\$47 million in receipts	24	\$178 million in receipts	35	11
562219	Other Nonhazardous Waste Treatment and Disposal	\$47 million in receipts	511	\$178 million in receipts	522	11
562910	Remediation Services	\$25 million in receipts	4604	\$113 million in receipts	4722	118
562920	Materials Recovery Facilities	\$25 million in receipts	913	\$113 million in receipts	975	62
562991	Septic Tank and Related Services	\$9 million in receipts	3741	\$113 million in receipts	3815	74
562998	All Other Miscellaneous Waste Management Services	\$16.5 million in receipts	1224	\$113 million in receipts	1253	29
611110	Elementary and Secondary Schools	\$20 million in receipts	18220	\$93 million in receipts	19460	1240
611210	Junior Colleges	\$32.5 million in receipts	350	\$171 million in receipts	394	44
611310	Colleges, Universities, and Professional Schools	\$34.5 million in receipts	1515	\$473 million in receipts	2335	820
611410	Business and Secretarial Schools	\$20.5 million in receipts	93	\$157 million in receipts	93	0
611420	Computer Training	\$16 million in receipts	1415	\$157 million in receipts	1462	47
611430	Professional and Management Development Training	\$15 million in receipts	7459	\$157 million in receipts	7608	149
611511	Cosmetology and Barber Schools	\$13 million in receipts	1286	\$56 million in receipts	1301	15
611512	Flight Training	\$34 million in receipts	937	\$56 million in receipts	943	6
611513	Apprenticeship Training	\$11.5 million in receipts	1283	\$56 million in receipts	1320	37
611519	Other Technical and Trade Schools	\$21 million in receipts	3839	\$56 million in receipts	3884	45
611610	Fine Arts Schools	\$9 million in receipts	15497	\$155 million in receipts	15558	61
611620	Sports and Recreation Instruction	\$9 million in receipts	18607	\$155 million in receipts	18695	88
611630	Language Schools	\$20.5 million in receipts	1321	\$155 million in receipts	1329	8
611691	Exam Preparation and Tutoring	\$12.5 million in receipts	8889	\$155 million in receipts	8961	72
611692	Automobile Driving Schools	\$10 million in receipts	2381	\$155 million in receipts	2381	0

611699	All Other Miscellaneous Schools and Instruction	\$16.5 million in receipts	6804	\$155 million in receipts	6849	45
611710	Educational Support Services	\$24 million in receipts	10207	\$294 million in receipts	10335	128
621111	Offices of Physicians (except Mental Health Specialists)	\$16 million in receipts	128334	\$101 million in receipts	131791	3457
621112	Offices of Physicians, Mental Health Specialists	\$13.5 million in receipts	12307	\$101 million in receipts	12419	112
621210	Offices of Dentists	\$9 million in receipts	119291	\$42 million in receipts	120266	975
621310	Offices of Chiropractors	\$9 million in receipts	39242	\$42 million in receipts	39276	34
621320	Offices of Optometrists	\$9 million in receipts	18490	\$42 million in receipts	18636	146
621330	Offices of Mental Health Practitioners (except Physicians)	\$9 million in receipts	38379	\$42 million in receipts	38675	296
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	\$12.5 million in receipts	30994	\$42 million in receipts	31285	291
621391	Offices of Podiatrists	\$9 million in receipts	6545	\$42 million in receipts	6589	44
621399	Offices of All Other Miscellaneous Health Practitioners	\$10 million in receipts	30101	\$42 million in receipts	30289	188
621410	Family Planning Centers	\$19 million in receipts	1654	\$170 million in receipts	1723	69
621420	Outpatient Mental Health and Substance Abuse Centers	\$19 million in receipts	8630	\$170 million in receipts	9291	661
621491	HMO Medical Centers	\$44.5 million in receipts	118	\$170 million in receipts	130	12
621492	Kidney Dialysis Centers	\$47 million in receipts	458	\$170 million in receipts	477	19
621493	Freestanding Ambulatory Surgical and Emergency Centers	\$19 million in receipts	5546	\$170 million in receipts	5906	360
621498	All Other Outpatient Care Centers	\$25.5 million in receipts	9720	\$170 million in receipts	10433	713
621511	Medical Laboratories	\$41.5 million in receipts	4154	\$140 million in receipts	4284	130
621512	Diagnostic Imaging Centers	\$19 million in receipts	4257	\$140 million in receipts	4471	214
621610	Home Health Care Services	\$19 million in receipts	27093	\$78 million in receipts	27692	599
621910	Ambulance Services	\$22.5 million in receipts	2747	\$56 million in receipts	2801	54
621991	Blood and Organ Banks	\$40 million in receipts	281	\$56 million in receipts	292	11
621999	All Other Miscellaneous Ambulatory Health Care Services	\$20.5 million in receipts	7772	\$56 million in receipts	7881	109
622110	General Medical and Surgical Hospitals	\$47 million in receipts	1132	\$144 million in receipts	1636	504
622210	Psychiatric and Substance Abuse Hospitals	\$47 million in receipts	191	\$95 million in receipts	274	83
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$47 million in receipts	127	\$376 million in receipts	263	136
623110	Nursing Care Facilities (Skilled Nursing Facilities)	\$34 million in receipts	9687	\$60 million in receipts	9945	258
623210	Residential Intellectual and Developmental Disability Facilities	\$19 million in receipts	6590	\$481 million in receipts	7267	677
623220	Residential Mental Health and Substance Abuse Facilities	\$19 million in receipts	3987	\$481 million in receipts	4582	595
623311	Continuing Care Retirement Communities	\$34 million in receipts	3284	\$108 million in receipts	3542	258
623312	Assisted Living Facilities for the Elderly	\$23.5 million in receipts	14463	\$108 million in receipts	14765	302
623990	Other Residential Care Facilities	\$16 million in receipts	3221	\$71 million in receipts	3484	263
624110	Child and Youth Services	\$15.5 million in receipts	9766	\$568 million in receipts	10336	570
624120	Services for the Elderly and Persons with Disabilities	\$15 million in receipts	32899	\$568 million in receipts	34280	1381
624190	Other Individual and Family Services	\$16 million in receipts	26352	\$568 million in receipts	27579	1227
624210	Community Food Services	\$19.5 million in receipts	3659	\$51 million in receipts	3831	172
624221	Temporary Shelters	\$13.5 million in receipts	3266	\$104 million in receipts	3593	327
624229	Other Community Housing Services	\$19 million in receipts	3260	\$104 million in receipts	3574	314
624230	Emergency and Other Relief Services	\$41.5 million in receipts	774	\$470 million in receipts	827	53
624310	Vocational Rehabilitation Services	\$15 million in receipts	3309	\$101 million in receipts	3841	532
624410	Child Care Services	\$9.5 million in receipts	61933	\$31 million in receipts	62635	702
711110	Theater Companies and Dinner Theaters	\$25 million in receipts	3339	\$194 million in receipts	3399	60

711120	Dance Companies	\$18 million in receipts	832	\$194 million in receipts	837	5
711130	Musical Groups and Artists	\$15 million in receipts	5384	\$194 million in receipts	5461	77
711190	Other Performing Arts Companies	\$34 million in receipts	415	\$194 million in receipts	422	7
711211	Sports Teams and Clubs	\$47 million in receipts	1157	\$172 million in receipts	1189	32
711212	Racetracks	\$47 million in receipts	450	\$172 million in receipts	470	20
711219	Other Spectator Sports Promoters of Performing Arts, Sports, and Similar Events with Facilities	\$16.5 million in receipts	2999	\$172 million in receipts	3037	38
711310	Promoters of Performing Arts, Sports, and Similar Events without Facilities	\$40 million in receipts	3555	\$225 million in receipts	3633	78
711320	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	\$22 million in receipts	4652	\$225 million in receipts	4733	81
711410	Independent Artists, Writers, and Performers	\$17.5 million in receipts	4640	\$344 million in receipts	4709	69
711510	Museums	\$9 million in receipts	37631	\$651 million in receipts	38012	381
712110	Historical Sites	\$34 million in receipts	5184	\$111 million in receipts	5254	70
712120	Zoos and Botanical Gardens	\$13 million in receipts	966	\$166 million in receipts	983	17
712130	Nature Parks and Other Similar Institutions	\$34 million in receipts	744	\$84 million in receipts	777	33
712190	Amusement and Theme Parks	\$19.5 million in receipts	635	\$98 million in receipts	640	5
713110	Amusement Arcades	\$47 million in receipts	578	\$374 million in receipts	596	18
713120	Casinos (except Casino Hotels)	\$9 million in receipts	2799	\$374 million in receipts	2858	59
713210	Other Gambling Industries	\$34 million in receipts	160	\$744 million in receipts	242	82
713290	Golf Courses and Country Clubs	\$40 million in receipts	1848	\$744 million in receipts	1925	77
713910	Skiing Facilities	\$19 million in receipts	8632	\$52 million in receipts	8824	192
713920	Marinas	\$35 million in receipts	284	\$52 million in receipts	287	3
713930	Fitness and Recreational Sports Centers	\$11 million in receipts	3319	\$52 million in receipts	3406	87
713940	Bowling Centers	\$17.5 million in receipts	32865	\$52 million in receipts	33042	177
713950	All Other Amusement and Recreation Industries	\$12.5 million in receipts	2745	\$52 million in receipts	2767	22
713990	Hotels (except Casino Hotels) and Motels	\$9 million in receipts	20256	\$52 million in receipts	20526	270
721110	Casino Hotels	\$40 million in receipts	44702	\$503 million in receipts	45274	572
721120	Bed-and-Breakfast Inns	\$40 million in receipts	126	\$503 million in receipts	277	151
721191	All Other Traveler Accommodation	\$9 million in receipts	2413	\$503 million in receipts	2428	15
721199	RV (Recreational Vehicle) Parks and Campgrounds	\$9 million in receipts	1819	\$503 million in receipts	1847	28
721211	Recreational and Vacation Camps (except Campgrounds)	\$10 million in receipts	4495	\$77 million in receipts	4533	38
721214	Rooming and Boarding Houses, Dormitories, and Workers' Camps	\$9 million in receipts	2509	\$77 million in receipts	2678	169
721310	Food Service Contractors	\$14 million in receipts	1420	\$39 million in receipts	1433	13
722310	Caterers	\$47 million in receipts	3400	700 employees	3413	13
722320	Mobile Food Services	\$9 million in receipts	12410	700 employees	12689	279
722330	Drinking Places (Alcoholic Beverages)	\$9 million in receipts	11478	700 employees	11509	31
722410	Full-Service Restaurants	\$11.5 million in receipts	38784	700 employees	39052	268
722511	Limited-Service Restaurants	\$13.5 million in receipts	222193	850 employees	224257	2064
722513	Cafeterias, Grill Buffets, and Buffets	\$34 million in receipts	159233	850 employees	162156	2923
722514	Snack and Nonalcoholic Beverage Bars	\$22.5 million in receipts	4180	850 employees	4194	14
722515	General Automotive Repair	\$9 million in receipts	59618	850 employees	59760	142
811111	Specialized Automotive Repair	\$9 million in receipts	78515	\$44 million in receipts	79005	490
811114			8412	\$44 million in receipts	8447	35

811121	Automotive Body, Paint, and Interior Repair and Maintenance	\$9 million in receipts	30727	\$44 million in receipts	31101	374
811122	Automotive Glass Replacement Shops	\$17.5 million in receipts	5565	\$44 million in receipts	5572	7
811191	Automotive Oil Change and Lubrication Shops	\$11 million in receipts	4172	\$44 million in receipts	4219	47
811192	Car Washes	\$9 million in receipts	15445	\$44 million in receipts	15568	123
811198	All Other Automotive Repair and Maintenance	\$10 million in receipts	4626	\$44 million in receipts	4644	18
811210	Electronic and Precision Equipment Repair and Maintenance	\$34 million in receipts	9925	\$87 million in receipts	9980	55
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	\$12.5 million in receipts	19607	\$393 million in receipts	20327	720
811411	Home and Garden Equipment Repair and Maintenance	\$9 million in receipts	1668	\$31 million in receipts	1672	4
811412	Appliance Repair and Maintenance	\$19 million in receipts	5234	\$31 million in receipts	5238	4
811420	Reupholstery and Furniture Repair	\$9 million in receipts	3246	\$31 million in receipts	3253	7
811430	Footwear and Leather Goods Repair	\$9 million in receipts	694	\$31 million in receipts	695	1
811490	Other Personal and Household Goods Repair and Maintenance	\$9 million in receipts	10518	\$31 million in receipts	10572	54
812111	Barber Shops	\$9.5 million in receipts	6578	\$34 million in receipts	6591	13
812112	Beauty Salons	\$9 million in receipts	72638	\$34 million in receipts	72751	113
812113	Nail Salons	\$9 million in receipts	33649	\$34 million in receipts	33649	0
812191	Diet and Weight Reducing Centers	\$27.5 million in receipts	1370	\$34 million in receipts	1370	0
812199	Other Personal Care Services	\$9 million in receipts	26753	\$34 million in receipts	26833	80
812210	Funeral Homes and Funeral Services	\$12.5 million in receipts	10646	\$39 million in receipts	10707	61
812220	Cemeteries and Crematories	\$25 million in receipts	3605	\$39 million in receipts	3621	16
812310	Coin-Operated Laundries and Drycleaners	\$13 million in receipts	9601	\$47 million in receipts	9627	26
812320	Drycleaning and Laundry Services (except Coin-Operated)	\$8 million in receipts	14128	\$47 million in receipts	14219	91
812331	Linen Supply	\$40 million in receipts	486	\$47 million in receipts	490	4
812332	Industrial Launderers	\$47 million in receipts	297	\$47 million in receipts	297	0
812910	Pet Care (except Veterinary) Services	\$9 million in receipts	23636	\$54 million in receipts	23665	29
812921	Photofinishing Laboratories (except One-Hour)	\$29.5 million in receipts	339	\$54 million in receipts	339	0
812922	One-Hour Photofinishing	\$19 million in receipts	94	\$54 million in receipts	94	0
812930	Parking Lots and Garages	\$47 million in receipts	2720	\$54 million in receipts	2724	4
812990	All Other Personal Services	\$15 million in receipts	22005	\$54 million in receipts	22048	43
813110	Religious Organizations	\$13 million in receipts	183223	\$76 million in receipts	184483	1260
813211	Grantmaking Foundations	\$40 million in receipts	11771	\$440 million in receipts	12185	414
813212	Voluntary Health Organizations	\$34 million in receipts	2980	\$440 million in receipts	3142	162
813219	Other Grantmaking and Giving Services	\$47 million in receipts	4522	\$440 million in receipts	4591	69
813311	Human Rights Organizations	\$34 million in receipts	3354	\$394 million in receipts	3403	49
813312	Environment, Conservation and Wildlife Organizations	\$19.5 million in receipts	7055	\$394 million in receipts	7162	107
813319	Other Social Advocacy Organizations	\$18 million in receipts	7146	\$394 million in receipts	7309	163
813410	Civic and Social Organizations	\$9.5 million in receipts	22880	\$242 million in receipts	23249	369
813910	Business Associations	\$15.5 million in receipts	14039	\$632 million in receipts	14387	348
813920	Professional Organizations	\$23.5 million in receipts	6044	\$632 million in receipts	6236	192
813930	Labor Unions and Similar Labor Organizations	\$16.5 million in receipts	11841	\$632 million in receipts	12017	176
813940	Political Organizations	\$14 million in receipts	2633	\$632 million in receipts	2660	27
813990	Other Similar Organizations (except Business, Professional,	\$13.5 million in receipts	17827	\$632 million in receipts	18053	226

Labor, and Political
Organizations)

Total

6,344,967

6,459,508

114,541

Notes: Estimated small business counts are excluded for Farms (NAICS Subsectors 111 & 112), Credit Card Issuing (NAICS 522210) Insurance and Employee Benefit Funds (NAICS 5251), Trusts, Estates, and Agency Accounts (NAICS 525920) due to lack of data under either the current or proposed standards. One industry Corporate, Subsidiary, and Regional Managing Offices (NAICS 551114) did not currently have a size standard. Two recently split off NAICS codes for Compost Manufacturing (NAICS 325315) and Agents for Wireless Telecommunications Services (NAICS 517122) also cannot be calculated, but all small businesses in these industries are included in the counts of Fertilizer (Mixing Only) Manufacturing (NAICS 325314) and Wireless Telecommunications Carriers (except Satellite) (NAICS 517112) respectively. Small business counts only include employer businesses. Under both standards all 29.8 million nonemployer businesses are presumed to be small businesses. Sources Statistics of U.S. Businesses, Railroad Retirement Board, Federal Deposit Insurance Corporation Call Report, and National Credit Union Administration Call Report

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C. Compliance With Executive Orders 12866, 12988, 13132, 13563 and 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OMB has determined that this rule is not a significant regulatory action. The rule will not impact the total number of federal contracts and is expected to have a minimal impact on SBA's lending programs, including 7(a) and 504 loans, which are subject to statutory caps. As a result, any impact on the economy is expected to be de minimis. In the next section, SBA provides a Cost-Benefit Analysis of this proposed rule, including: (1) a statement of the need for the proposed action, (2) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action; and (3) an examination

of alternative approaches. SBA invites comments on Cost-Benefit Analysis.

Cost-Benefit Analysis

1. Need for This Regulatory Action

Under the Small Business Act (15 U.S.C. 632(a)), SBA's Administrator is responsible for establishing small business size definitions (or "size standards") and ensuring that such definitions vary from industry to industry to reflect differences among industries. The Jobs Act requires SBA to review every five years all size standards and make necessary adjustments to reflect current market conditions. This proposed rule is part of the third five-year review of size standards in accordance with the Jobs Act. The first five-year review of size standards was completed in early 2016 and the second five-year review in early 2023.

2. Baseline and Proposed Changes

In Circular A–4 (September 17, 2003), OMB directs agencies to establish an appropriate baseline to evaluate any benefits, costs, or transfer impacts of regulatory actions and alternative approaches considered. The baseline should represent the agency's best assessment of what the world would look like absent the regulatory action.

For purposes of this regulatory action, the baseline is maintaining the "status quo," *i.e.*, making no changes to the current size standards. Currently, there

are 102 different size standards levels, covering 978 NAICS industries and 18 subindustries (commonly known as "exceptions" in SBA's table of size standards). Of these size levels, 73 are based on average annual receipts covering 496 industries and 13 subindustries ("exceptions"), 27 are based on average number of employees covering 477 industries and five subindustries ("exceptions"), one is based on refining capacity and number of employees covering one industry, and one is based on average assets covering four industries.

The proposed rule applies the Revised Methodology and moves from 6-digit NAICS industries to a combination of 4-digit NAICS industry groups and 5-digit NAICS industries and includes 338 size standards across all areas of the economy in which small businesses may compete (NAICS 4911, 5211, 8141, and all of sector 92 are excluded). The proposed rule also converts many receipt-based industries to employee-based industries, updates the factors used to calculate size standards, updates the process for translating those factors into size standards, and adds an adjustment for productivity growth to receipt based standards. Further details on the proposed changes are provided in the Proposed Size Standards Methodology section. The following table provides a short comparison of the proposed changes to the baseline.

Baseline	Proposed changes
Separate rules establishing receipt-based & employee-based size standards.	One rule establishing all size standards.
978 size standards at the 6-digit NAICS level	276 size standards at the 4-digit NAICS level and 62 at the 5-digit NAICS level.
496 size standards based on annual revenue	129 size standards based on annual revenue (as required by statute).
478 size standards based on employee level	208 size standards based on employee level.
18 subindustries (exceptions)	No exceptions.
Maximum for revenue-based: \$47 million; Maximum for employee-based: 1,500.	No maximum.
Total number of small business firms: 6,344,967	Total number of small business firms: 6,459,508.

3. Benefits of Proposed Size Standards

The proposed simplified size standard benefits small businesses, banks including loans officers, federal

government agencies including procurement officers, and the public in general.

Impact on Small Businesses

The proposed simplified size standard is easier to navigate and reduces time taken for review and determination of

small business standards for small businesses. In addition, the proposed rule changes which businesses are classified as small. The changes to the size standards would result in a net increase of about 114,541 businesses classified as small. Classification as small confers economic advantages in three primary domains: preferential access to federal government contracts through set-aside programs, access to subsidized and guaranteed financing, and protection from regulatory burdens through the Regulatory Flexibility Act (RFA).

Simplified size standard: In the current version of SBA size standards, there are nearly 1,000 unique size standards, with numerous alternative size standards for different special cases. For example, there is currently a different size standard for Ship Building (1,300 employees) than there is for Boat Building (1,000 employees). While Ships are larger than boats and are more likely to be used for commercial purposes, there is gray area where a firm could be uncertain which standard applied to them. By moving up to the 4-digit level this uncertainty is resolved as both NAICS 6-digit industries are combined into a single 4-digit one for purposes of size standards.

Increases potential for participating in government contracting programs: The federal government is the world's largest buyer of goods and services, spending over \$883 billion in federal contracts in Fiscal Year 2025 according to www.usapending.gov. Statute requires the federal government to set a goal for small business participation in the total value of prime contracts at no less than 23 percent. In FY 2024, the federal government exceeded this goal, awarding a record \$179 billion in prime contract dollars to small businesses.⁶

To help meet these goals, contracting officers at these agencies can use restricted competition to all small businesses, Service-Disabled Veteran-Owned Small Businesses (SDVOSB), Women-Owned Small Businesses (WOSB), Historically Underutilized Business Zones (HUBZone), or 8(a) Business Development (BD) firms. Sole-source authorities exist in SDVOSB, WOSB, HUBZone, and 8(a) BD programs, although their usage differs by each program. In addition, the government can sole-source outside of these programs, including to small businesses, when the requirements are met to warrant a sole-source.

Both SBA's regulations and the Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO)

require consideration for small business preferences, set-asides, and SBA certification programs, including the 8(a) BD Program, the HUBZone Program, WOSB Program, the Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) Program, and the SDVOSB Program.⁷ Because of the preferences small businesses receive in federal contracting, newly classified small businesses may seek opportunities to participate in federal contracting where they may not have done so before.

Increases potential for participation in SBA business loan programs: Small business determination also allows firms to participate in the SBA business loan programs including disaster loans.

- For FY 2026 (current as of 7/6/26), for instance, \$23 billion was approved for 43,089 loans in the 7(a) program and \$5.5 billion to 4,710 firms for the 504 program.⁸ For the entire FY 2025, \$37 billion was approved in 7(a) loans and \$7 billion in 504 loans.⁹ Newly qualified businesses as well as businesses that retain eligibility will be able to participate in these and other SBA loan programs including the newly introduced 7(a) Working Capital Pilot Program that has delivered more than \$150 million in new lending since its inception.¹⁰

- Newly qualified small businesses will also benefit from Economic Injury Disaster Loans (EIDLs). Small businesses, small agricultural cooperatives, and most private nonprofit organizations located in a declared disaster area, and which have suffered substantial economic injury, are eligible. In FY 2022, the last year for which data is available, \$131 million in EIDL loans were approved.¹¹ Since the benefit provided through these loans programs is contingent on small businesses applying for loans following future disasters, SBA cannot make a meaningful estimate of the impact of the proposed rule.

Greater flexibility and lower compliance requirements for small businesses: Besides contracting and financial assistance discussed above, small businesses also benefit through reduced fees and fewer compliance requirements that are available to small

businesses through the Federal government. The Regulatory Flexibility Act requires agencies to give special consideration to small businesses in the regulatory process. Regulating agencies often take measures to decrease the burden of regulations on small businesses, including delaying compliance deadlines or even exempting small businesses altogether, and a small business determination under the size standard rule causes agencies to consider applying these exemptions or flexibilities.

For instance, in May 2026, the Consumer Financial Protection Bureau (CFPB) published the Small Business Lending Under the Equal Credit Opportunity Act (Regulation B) Rule governing collection and reporting of data regarding applications for credit by small businesses. This final rule amended coverage of certain credit transactions and financial institutions, the small business definition, and the compliance date. According to an Office of Advocacy Comment Letter,¹² the change from the 2023 Rule reduces compliance costs estimated at \$58,400–\$95,200 annually for approximately 1,500 smaller financial institutions, while still capturing more than 90% of small business lending by volume.

In some cases, small businesses would have maintained access to the benefits described above through limiting their own growth. The new methods for determining size standards will allow small businesses to grow further before exceeding the size standards, enabling them to continue to benefit from the small business programs without sacrificing growth.

Impact on Federal Government (Including Contracting Officers)

Increases Competition: With more businesses qualifying as small under the proposed increases to size standards, Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs. The current, slow to adjust size-standards often leave small businesses with a decision to forego new growth opportunities in order to remain within the limited size threshold.¹³ To encourage economic growth and address similar concerns raised by small businesses, the SBA proposes to modernize the size-standards to foster an environment

⁷ Scorecard details | U.S. Small Business Administration.

⁸ Workbook: 7(a) & 504 Summary Report.

⁹ Trump SBA Delivers Record Capital to Small Businesses in FY25 | U.S. Small Business Administration.

¹⁰ SBA's Working Capital Pilot Program Delivers \$150 Million to Support U.S. Manufacturing | U.S. Small Business Administration.

¹¹ SBA Disaster Loan Data | U.S. Small Business Administration.

¹² Comment Letter—Small Business Lending Under the Equal Credit Opportunity Act (Regulation B), Docket No. CFPB–2025–0040.

¹³ Michael Ramos Testimony House Small Business Committee Hearing 9.10.2025; Jay Lambke Testimony House Small Business Committee Hearing 2.6.24.

⁶ FY24 Scorecard Factsheets—Small Business.

where small firms are encouraged to propose innovative solutions rather than forgo those growth opportunities in order to remain small in the currently restrictive, slow to move standards. By bringing such flexibility to small contractors, and the resulting increase in small firms, the federal government will have more capable firms to consider, and more competitive offers, when purchasing goods and services.

A Naval Postgraduate School Acquisition Research Program study summarizes this issue, stating “One of the other key policy objectives of the Small Business Act is to promote small business in order to foster economic growth. Yet as suppliers grow towards their NAICS thresholds, they encounter a “benefit cliff” that disincentivizes growth, counter to this goal.”¹⁴ Additionally, the study suggests that restricted competition contributes to weak competitive procurements, limiting the range of cost, quality, and delivery options. These constraints result in fewer choices to balance purchasing goals, such as cost and best-value to the government.

Small businesses voiced their concerns about the prior, restrictive size standards in a hearing held by Chairman Roger Williams (R–TX) in the House Committee on Small Business in the

118th Congress titled “Under the Microscope: Reviewing the SBA’s Small Business Size Standards.”¹⁵ The hearing examined the previous size standards methodology, and as Chairman Williams’ press release stated, “Today’s hearing shed a light on how small businesses often get boxed out of the federal procurement marketplace. The federal government is the largest customer in our nation, so ensuring accurate size standards is incredibly important so more small firms can compete for contracts. Antiquated standards leave small businesses behind . . .”¹⁶ Additionally, as Ranking Member Velazquez (D–NY) stated, “Right-sizing the size standards is critical to ensure fairness, promote competition and encourage small businesses to enter and remain in the industrial base.”

Agency Goaling. The proposed size standard increases the total number of eligible small businesses from 6,344,967 firms to 6,459,508 firms, an increase of close to 2%. As discussed above, the federal government has an annual small business federal contracting goal. Businesses with a new determination of ‘small business’ status currently competing for government contracts will now be able to contribute towards these goals. Having small business status will

enable these businesses to compete for contracts restricted to small businesses, while agencies will be able to count the contracts awarded to newly-small businesses toward their small business goals (regardless of whether such procurements were restricted to small businesses).

SBA estimates that nearly 37,002 unique firms with FY 2025 contracts will be newly eligible small businesses. Together these firms accounted for roughly 105,655 contracts in FY 2025 for a total of more than \$71 billion.

The following table provides the top 20 industry groups by 6-digit NAICS with existing contracts in FY 2025 which will count toward small business goals under the proposed size standards owing to the small business determination of the contracting businesses under the proposed size standards. For instance, in Engineering Services (541330) 5,314 firms with current contracts will now be eligible to compete for small business restricted set asides and contracts awarded to these firms will count toward the small business contracting goals for agencies. In Other Computer Related Services (541519) and Custom Computer Programming Services (541511), 2,247 firms and 2,171 firms respectively will be eligible for small business goals.

NAICS	Description	Small businesses under proposed standards
541330	Engineering Services	5,314
541519	Other Computer Related Services	2,247
541511	Custom Computer Programming Services	2,171
541611	Administrative Management and General Management Consulting Services	1,818
541512	Computer Systems Design Services	1,663
541990	All Other Professional, Scientific, and Technical Services	1,427
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance ...	1,358
721110	Hotels (except Casino Hotels) and Motels	1,263
811210	Electronic and Precision Equipment Repair and Maintenance	1,214
623110	Nursing Care Facilities (Skilled Nursing Facilities)	1,178
115310	Support Activities for Forestry	1,111
518210	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	1,105
541930	Translation and Interpretation Services	1,083
611430	Professional and Management Development Training	959
541199	All Other Legal Services	870
541690	Other Scientific and Technical Consulting Services	719
561720	Research and Development in the Social Sciences and Humanities	672
541620	Environmental Consulting Services	596
541310	Architectural Services	530
611310	Colleges, Universities, and Professional Schools	507

GAO found that more competition leads to better performance and price.¹⁷

This indicates potential cost savings for agencies as non-sole source competitive

contracts increase and agencies continue to prioritize small businesses

¹⁴ Examining the Effects of Set Aside Policies on Competition and Growth for Small and Mid-Sized Suppliers.

¹⁵ “Under the Microscope: Reviewing the SBA’s Small Business Size Standards”. (2026, June 24).

<https://www.congress.gov/event/118th-congress/house-event/116800>.

¹⁶ House Committee on Small Business, “Committee on Small Business Holds Hearing Examining SBA Size Standards | House Committee

on Small Business,” February 6, 2024, press release, <https://smallbusiness.house.gov/news/documentsingle.aspx?DocumentID=405872>.

¹⁷ Federal Contracting | U.S. GAO.

in the federal procurement space, as an increased pool of small businesses will likely have a favorable effect on the use of procuring with small business by agencies. Having an increased pool of small businesses competing for contracts restricted to small business could also decrease prices by providing agencies with access to contractors with lower costs, improved offerings and that decrease in price would be a benefit to agencies and provide the best value to the taxpayers who ultimately fund every contract.

Simplifies administration: This rule will decrease the administrative burden on procurement and contracting officers. The rule simplifies the system used to classify small businesses. The rule also combines the receipt-based and employee-based size standards previously published by SBA in two separate rules into a single rule, reducing the burden of understanding the size standards. Savings from publishing the new size standards in a single simplified rule could be meaningful. The current rules account for more than 150 pages in the **Federal Register**. Assuming 1,000 words per page (a **Federal Register** page is roughly two dense newspaper columns with small serif font and narrow margins, so it carries more text than a standard 8.5x11 manuscript page, estimated 900–1200 words per page), that is 150,000 words. The proposed rule is expected to reduce this by more than half as it combines the two rules (receipt-based and employee-based) into one and simplifies the system from 6-digit NAICS to a combination of 4-digit and 5-digit NAICS. Suppose this translates to 70 pages or 70,000 words: At 200 words per minute, that is 5 hours 50 minutes of reading time saved. To acknowledge both the capital and labor requirements, SBA applies an average dollar cost to an hour of \$37.64, hourly average wage for nonfarm employees in June of 2026,¹⁸ resulting in \$219.57 in savings per reading. The federal government employs about 37,600 contracting officers,¹⁹ so the value of the reduction in reading time could be substantial.

Impact on Banks and Loan Officers

As discussed in previous sections, the proposed size standard is shorter and easier to apply and will benefit not only small businesses and federal government but also banks and loan officers. For instance, since 2020, 1,877

FDIC monitored banks, 314 NCUA monitored Credit Unions as well as numerous smaller financial institutions and community banks provided SBA guaranteed 7(a) loans. Responsible loan officers at these institutions will save time in the review and approval of 7(a) loans. This is because the proposed size standard introduces a simplified process for assessing firm size eligibility.

4. Costs of Proposed Size Standards Impact on Small Businesses

All businesses interested in doing business with Federal government must register in SAM and update their SAM profiles annually, regardless of their size status. Businesses that are newly classified as small may choose to incur these costs in pursuit of federal contracts. Besides having to register in SAM to be able to participate in Federal contracting and update the SAM profile annually, small businesses incur no direct costs to gain or retain their small business status because of increases to size standards.

There is, however, a potential impact on small businesses' ability to access SBA loans and government contracts. In addition, there is the possibility of increased administrative costs for the government. The costs caused by a loss in small business status invert the benefits discussed in the benefits section, including losses in economic efficiency caused by decreases in competition for federal contracts. However, the number of businesses gaining small business status using the proposed methodology is much larger than the number of businesses that could potentially lose small business status. SBA estimates that fewer than 200 businesses would lose small status under the proposed methodology, while about 114,236 would gain small status. Furthermore, SBA is proposing to not reduce any size standards which are keeping the same size standard measure. As such SBA estimates fewer than 5 small businesses in Direct Property and Casualty Insurance Carriers (NAICS 524126) will lose small business status due to the switch from employment to receipt-based size standards. Further discussion about impacts on small businesses can be found in the Regulatory Flexibility Act (RFA) section.

Federal contracting officers are required to ensure that all contracts entered into by the Federal government are provided at a fair market price. Increasing the number of eligible small businesses to compete for Federal contracts increases the likelihood that the government procures services and

products from small businesses at a fair market value. The increased competition may, however, result in reduced profits as more small businesses are competing for federal contracts. These issues are discussed in more detail in the RFA.

In the single industry that may see a decrease in the number of small business due to changing, some businesses may no longer be eligible for SBA loan guarantees (7(a), 504) or EIDL loans. While it is not possible to accurately predict the behavior of businesses, a review of the data between 2020–2026 reveals that in NAICS 524126 (Direct Property and Casualty Insurance Carriers), all businesses with approved 7(a) loans are substantially below the size standard and will remain eligible for SBA loans under the proposed size standards.

Among those newly defined small businesses seeking SBA loans, there could be some additional costs associated with verification of their small business status. However, many of SBA's loan programs are subject to a statutory cap and thus increased new businesses would be unlikely to increase administrative costs, and information pertaining to revenue and employment is generally required in the loan application process notwithstanding size standard. Therefore, SBA believes that any added administrative costs will be small.

Impact on Government

There is a potential for increased administrative costs for the government in implementing the proposed size standards. To the extent that the newly qualified small businesses could become active in Federal procurement, the proposed increases to size standards, if adopted, may entail some additional administrative costs to the government because of more businesses qualifying as small for Federal small business programs. For example, there may be more firms seeking SBA loans, more firms potentially eligible for certification such as SDVOS, WOSB, EDWOSB, 8(a), HUBZone, or SBA Mentor-Protégé Program. A preliminary analysis of the FPDS database, however, reveals that most of the small businesses participating in the certification and loan programs are significantly below the size standard threshold. While it is not possible for SBA to accurately predict which newly classified firms would be eligible for certification or predict the behavior of newly eligible small businesses, the evidence from existing program participation data thus suggests that the newly eligible small businesses close to the size standard

¹⁸ Table B–3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted—2026 M06 Results.

¹⁹ Workforce Size & Composition.

threshold in revenue or employment scale are not likely to apply for certification or loan guarantees in large numbers. Hence, SBA expects any rise in administrative costs to be small.

The SBA's historical data on size protests reveals that the number of size protests decreased following the increases size standards which resulted in more eligible small businesses. This was part of the first and second five-year reviews of size standards under the Jobs Act. Specifically, on an annual basis, the number of size protests fell from about 500–600 during 2011–2016 to an average of about 300 during 2020–2024.²⁰

5. Transfer Impact of Size Standards

The proposed increases to size standards, if adopted, may result in some redistribution of Federal contracts between the newly qualified small businesses and other-than-small businesses and between the newly qualified small businesses and small businesses under the current standards. As discussed in the benefit and cost sections, some of the resulting changes in prices and profits would be the result of gains in economic efficiency. However, some other changes would be transfers between the federal government and small businesses and among small businesses.

With a close to 2% increase in number of firms qualifying as small businesses, there is likely to be an increase in competition for small business government contracts which may impact firms qualifying under the current size standards by reducing their likelihood of winning government contracts if they are not the best solution for the government. Increased competition is likely to have the greatest impact on businesses most similar in size to the businesses that would be newly classified as small, since these are more likely to be competing for the same contracts. In other words, the smallest businesses in particular industries are likely not to be competitive for the same contracts as the businesses closest to the current size standards, while small businesses closest to the current size standards would likely be competitive for the same contracts as the businesses newly classified as small under the proposed rule. Growing small businesses closer to the size standard are therefore likely to

face the greatest competition from the newly eligible firms under the proposed rule. Having more eligible businesses compete for set asides may reduce some small businesses' chances of securing a government contract, but the number of small businesses being awarded federal contracts will not be reduced.

Research suggests that firms that remain active in federal contracting rely less on small business set asides over time. Girth and Brown (2018) tracked 977 federal suppliers and their contracts between 2005–2014 to study the potential impact of small business policies on supplier competitiveness, program participation, and growth.²¹ They demonstrated that firms that remained in the federal market for the decade under review had nearly twice as much contract activity in 2014 than 2005 with increasingly lower dependency on set asides. Growing firms successfully competed with large businesses in an open market, relying less and less on set asides. Therefore, while growing businesses that are approaching the size standards may face higher competition and lower profit margins from government contracts, they will likely benefit from higher standards by being able to accept more non set aside contracts and private market contracts without risk of losing their small business status because of growth in revenue or employment. For further discussion, please refer to the RFA section of this rule.

6. Alternatives to the Proposed Rule

OMB's Circular A–4 directs SBA to consider regulatory alternatives to the proposed changes in the proposed rule. Many such alternatives are discussed in the Revised Methodology document. At a high level, however, SBA considered two main alternatives to the proposed rule:

- Alternative One would propose retaining all size standards for all industries. The current size standards were developed in 2022 during COVID and have not been adjusted for inflation since. This makes the standard unreasonably low for many of the industries, including the construction industry, which has remained largely static aside from occasional inflationary adjustments.²² The proposed standard not only addresses this issue by adjusting for inflation but also for the first time adjusts for productivity growth, developing a size standard that does not unfairly punish small

businesses for growing productivity and efficiency.

- Alternative Two would update current size standards at the 6-digit NAICS level. This would use the current, notably flawed methodology white paper published in 2024.²³ This option was rejected because the new proposed size standards more closely track the statutorily required concept of non-dominance, adjusts for both inflation and productivity, and provides an easier to use size standard at the 4- or 5-digit NAICS level where appropriate. The SBA periodically updates its size standards to account for inflation. Including productivity growth helps ensure small businesses with receipts based size standards are able to maintain a more skilled workforce and incorporate new technology into their operations without decreasing head count. The proposed methodology also substantially increases the number of small businesses as compared to the existing methodology. As discussed before, while the existing methodology would cause less disruption for small businesses currently participating in the federal market in terms of their ability to secure contracts and earn profits from these contracts, it would also limit their ability to grow and continue to participate in the federal market because of the continuing low size standards. The proposed standards would create an estimated 114,541 newly eligible small businesses, including 37,002 businesses currently participating in the federal marketplace,²⁴ which would become eligible for government contracts, SBA loans, and more simplified compliance mechanisms.²⁵

Executive Order 14192

This proposed rule is anticipated to be an Executive Order 14192 deregulatory action when finalized. This rulemaking will decrease regulatory burden by simplifying SBA size standards. Cost savings created by this rulemaking are expected to outweigh any new costs that may arise because of this rule. See the above Cost-Benefit Analysis for a full discussion of the costs of benefits of the rule.

Regulatory Flexibility Act

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612,

²³ 2024 Size Standards Methodology White Paper | U.S. Small Business Administration.

²⁴ 37 thousand unique firms with \$71 billion in government contracts for FY25 will be considered small businesses under the proposed size standards.

²⁵ This includes reduced reporting requirements and less stringent oversight under the SBA. This is notably more flexible than being under the jurisdiction of a financial regulator like the Securities and Exchange Commission.

²⁰ See for instance, Sarah K. Carpenter, "Key Takeaways from the GAO's Bid Protest Report to Congress for Fiscal Year 2024," Smith Currie Oles LLP, December 31, 2024, <https://www.smithcurrie.com/publications/common-sense-contract-law/key-takeaways-from-the-gaos-bid-protest-report-to-congress-for-fiscal-year-2024/>.

²¹ Examining the Effects of Set Aside Policies on Competition and Growth for Small and Mid-Sized Suppliers.

²² 2024 Size Standards Methodology White Paper. See pp. 8–9.

when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. This proposed rule, if adopted, may have a significant impact on a substantial number of small businesses covered by this proposed rule. As described above, this rule may affect small businesses seeking Federal contracts, loans under SBA's 7(a), CDC/504, micro EIDL Loan Programs, and assistance under other Federal small business programs.

Initial Regulatory Flexibility Analysis

1. What is the need for and objective of the rule?

The Small Business Jobs Act of 2010 requires SBA to review every five years all size standards and make necessary adjustments to reflect market conditions. SBA completed the first five-year review of size standards in 2016 and the second five-year review in 2023. This rule serves as the third five-year review of size standards under the Jobs Act. Additional needs and objectives for the proposed rule are discussed in the Revised Methodology.

2. What is SBA's description and estimate of the number of small businesses to which the rule will apply?

The proposed rule applies to all small businesses and impacts access to government contracts, SBA loans, federal programs providing funding for small businesses, and regulatory flexibilities available to small businesses. The proposed rule increases the total number of eligible small businesses from 6,344,967 firms to 6,459,508 firms, an increase in 1.8%. Of the 338 size standards produced by the methodology, only 24 industry groups or industries result in a reduction in number of eligible firms with the total decrease expected to be less than 200. Additionally, SBA has chosen to deviate from the proposed methodology to keep all size standards which continue to use the same measure from decreasing. Because of this deviation only one industry, Direct Property and Casualty Insurance Carriers (NAICS 524126), is expected to see a decrease of fewer than five small businesses, as its size standard changes from 1,500 employees to \$842 million in receipts. The expected net increase is 114,541 firms.

3. What is the projected reporting, record keeping and other compliance requirements of the rule?

The proposed size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of

other programs requires that businesses register in SAM and self-certify that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with SAM registration or certification.

Impact on SBA Loans

Most industries will see an increase in the size standard and a corresponding increase in the number of firms eligible to apply to SBA programs. As noted, the methodology results in a reduced size standard for 45 industry groups or industries and a transition in size measure in one industry which effectively lowers the size standard, though only 24 would have seen a reduction in the number of small businesses, however SBA is proposing to adopt a policy of not reducing size standards for all industries maintaining the same size standard measure. As such fewer than 5 small businesses in NAICS 524126 (Direct Property and Casualty Insurance Carriers) are expected to lose small business status. A determination about 7(a) loan eligibility could not be made about this industry owing to lack of available revenue data for loan recipients. However, SBA finds it unlikely that any firm seeking SBA loans would lose access because most firms that take SBA loans are much smaller than the size standard threshold, as discussed earlier.

Impact on Government Contracts

The ability to compete for government contracts is one of the most significant benefits of being a small business. Using publicly available data from FPDS and SAM, SBA conducted a review of all small businesses with at least one contract in FY 2025. As in the case of loans, most certified businesses have revenue and employment well below the size standard. For the industry where the number of small businesses is lower under the proposed size standard than under the current size standard, SBA was unable to identify any firms with FY 2025 contracts²⁶ that would likely no longer be small businesses under the proposed size standard.

Both existing and newly eligible small businesses currently active in SAM will be able to compete in federal contracts restricted to small business. More small firms would be size-eligible for SBA contracting programs, however, each program has additional and unique eligibility requirements, such as service-

disabled veteran status, economic disadvantage requirements, or firm location dependent criteria. Another advantage is that small firms that outgrew the prior standards would regain access to small business contracting. In fact, under the proposed rule, about 114,541 new firms will become eligible to compete in the federal market. 37,002 firms with more than 105,655 contracts in FY 2025 (accounting for roughly \$71 billion dollars in government contracts) will become small businesses under the proposed size standards.

Federal contracting officers are required to ensure that all contracts entered into by the Federal government are provided at a fair market price. Increasing the number of eligible small businesses to compete for Federal contracts increases the likelihood that the government procures services and products from small businesses at a fair market value. The increased competition may, however, result in reduced profits as more small businesses are competing for federal contracts.

Increased competition is likely to have the greatest impact on businesses that most resemble the newly classified small firms. This is because these similar businesses are more likely to compete for the same contracts. Growing small businesses closer to the size standard are therefore likely to face the greatest competition from the newly eligible firms under the proposed rule. While having more eligible businesses compete for set asides may reduce their chances of securing a government contract, the number of small businesses being awarded federal contracts will not be reduced.

However, firms that remain active in the federal marketplace rely less on small business set asides over time. Girth and Brown (2018) tracked 977 federal suppliers and their contracts between 2005–2014 to study the potential impact of small business policies on supplier competitiveness, program participation, and growth. They demonstrated that in the nearly 10 years documented in their study, though many firms exited the federal market, the firms that remained had nearly twice as much contract activity in 2014 than 2005. In 2005, all firms selected for the study had set aside contracts. Of the 424 suppliers with prime contract actions in 2014, 108 had no small business set aside actions. Growing firms successfully competed with large businesses in an open market, relying less and less on set asides.

Furthermore, growing businesses that are approaching the size standards will

²⁶ This is based on self-reported data available in *sam.gov*. Much of the revenue and number of employees data is outdated or inaccurate so there is a potential of more firms being impacted.

benefit from the potential to grow while retaining their small business status. Girth and Brown observed a “benefit cliff,” where firms considering the transition from small to mid-sized can face a disincentive to grow because they will enter a federal procurement market dominated by large firms with extensive past performance. The proposed size standard effectively pushes out this benefit cliff, allowing businesses to grow while retaining their small business status and the ability to compete for set asides that comes with it. This could prove to be a significant benefit for small businesses currently facing the risk of being sized out of the federal marketplace.

4. What are the relevant Federal rules, which may duplicate, overlap or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA’s size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA’s size standards as well as other size standards used by Federal agencies (60FR57988 (November 24, 1995)). SBA is not aware of any Federal rules that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA’s regulations allow Federal agencies to develop different size standards if they believe that SBA’s size standards are not appropriate for their programs, with the approval of SBA’s Administrator (13CFR121.903). The Regulatory Flexibility Act authorizes an agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for

establishing eligibility for Federal small business assistance programs. In this case, the alternatives considered in the E.O. 12866 section, cited below, also apply here, as do the alternatives discussed in the Revised Methodology:

- Alternative One would propose retaining all size standards for all industries. The current size standards were developed in 2022 during COVID and have not been adjusted for inflation since. This makes the standard unreasonably low for many of the industries including construction. The proposed standard not only addresses this issue by adjusting for inflation but also for the first time adjusts for productivity growth, developing a size standard that does not unfairly punish small businesses for growing productivity and efficiency.

- Alternative Two would update current size standards at the 6-digit NAICS level using existing methodology white paper published in 2024. This option was rejected because the new proposed size standards more closely track the statutorily required concept of non-dominance, adjust for both inflation and productivity, and provide an easier to use size standard at the 4-digit level where appropriate. The Revised Methodology also substantially increases the number of small businesses as compared to the existing methodology. As discussed before, the existing methodology would limit small businesses’ ability to grow and continue to participate in the federal market because of the continuing low size standards. The proposed standards would create about 114,541 newly eligible small businesses including 37,002 with existing government contracts in FY 2025 that become eligible for government contracts, SBA loans and increased regulatory flexibility and decided to select the proposed method.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce

burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this proposed rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this proposed rule will not impose any new reporting or record keeping requirements.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Authority delegations (government agencies), Government procurement, Government property, Grant programs—business, Individuals with disabilities, Intergovernmental relations, Investigations, Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9).

■ 2. In § 121.201, revise the table “Small Business Size Standards by NAICS Industry” to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

BILLING CODE 8026–09–P

Small Business Size Standards

NAICS code	Description	Size Standard in number of employees or millions of dollars
Sector 11 - Agriculture, Forestry, Fishing and Hunting		
Subsector 111 - Crop Production		
1111	Oilseed and Grain Farming	2,700 employees
1112	Vegetable and Melon Farming	2,750 employees
1113	Fruit and Tree Nut Farming	3,500 employees
11141	Food Crops Grown Under Cover	1,550 employees
11142	Nursery and Floriculture Production	2,750 employees
1119	Other Crop Farming	2,450 employees
Subsector 112 - Animal Production and Aquaculture		
1121	Cattle Ranching and Farming	3,000 employees
1122	Hog and Pig Farming	1,750 employees
11231	Chicken Egg Production	1,250 employees
11232	Broilers and Other Meat Type Chicken Production	1,700 employees
11233	Turkey Production	1,050 employees
11234	Poultry Hatcheries	850 employees
11239	Other Poultry Production	550 employees
11241	Sheep Farming	1,250 employees
11242	Goat Farming	1,050 employees
1125	Aquaculture	2,050 employees
1129	Other Animal Production	1,550 employees
Subsector 113 - Forestry and Logging		
1131	Timber Tract Operations	850 employees
1132	Forest Nurseries and Gathering of Forest Products	500 employees
1133	Logging	1,400 employees
Subsector 114 - Fishing, Hunting and Trapping		
1141	Fishing	\$327 million in receipts
1142	Hunting and Trapping	\$159 million in receipts
Subsector 115 - Support Activities for Agriculture and Forestry		
1151	Support Activities for Crop Production	\$624 million in receipts
1152	Support Activities for Animal Production	\$71 million in receipts
1153	Support Activities for Forestry	\$191 million in receipts
Sector 21 - Mining, Quarrying, and Oil and Gas Extraction		
Subsector 211 - Oil and Gas Extraction		
2111	Oil and Gas Extraction	2,200 employees
Subsector 212 - Mining (except Oil and Gas)		
2121	Coal Mining	1,550 employees
2122	Metal Ore Mining	1,500 employees
2123	Nonmetallic Mineral Mining and Quarrying	950 employees
Subsector 213 - Support Activities for Mining		
2131	Support Activities for Mining	2,650 employees
Sector 22 - Utilities		
Subsector 22 - Utilities		
2211	Electric Power Generation, Transmission and Distribution	1,150 employees
2212	Natural Gas Distribution	1,150 employees
2213	Water, Sewage and Other Systems	500 employees
Sector 23 - Construction		

Subsector 236 - Construction of Buildings		
2361	Residential Building Construction	550 employees
2362	Nonresidential Building Construction	600 employees
Subsector 237 - Heavy and Civil Engineering Construction		
23711	Water and Sewer Line and Related Structures Construction	700 employees
23712	Oil and Gas Pipeline and Related Structures Construction	2,000 employees
	Power and Communication Line and Related Structures Construction	
23713		1,500 employees
2372	Land Subdivision	850 employees
2373	Highway, Street, and Bridge Construction	700 employees
2379	Other Heavy and Civil Engineering Construction	900 employees
Subsector 238 - Specialty Trade Contractors		
2381	Foundation, Structure, and Building Exterior Contractors	650 employees
23821	Electrical Contractors and Other Wiring Installation Contractors	550 employees
23822	Plumbing, Heating, and Air-Conditioning Contractors	550 employees
23829	Other Building Equipment Contractors	550 employees
2383	Building Finishing Contractors	600 employees
2389	Other Specialty Trade Contractors	550 employees
Sector 31-33 - Manufacturing		
Subsector 311 - Food Manufacturing		
3111	Animal Food Manufacturing	1,800 employees
3112	Grain and Oilseed Milling	1,800 employees
31131	Sugar Manufacturing	1,150 employees
31134	Nonchocolate Confectionery Manufacturing	1,000 employees
31135	Chocolate and Confectionery Manufacturing	1,300 employees
31141	Frozen Food Manufacturing	2,050 employees
31142	Fruit and Vegetable Canning, Pickling, and Drying	1,950 employees
3115	Dairy Product Manufacturing	2,350 employees
3116	Animal Slaughtering and Processing	2,000 employees
3117	Seafood Product Preparation and Packaging	1,250 employees
31181	Bread and Bakery Product Manufacturing	1,000 employees
31182	Cookie, Cracker, and Pasta Manufacturing	1,250 employees
31183	Tortilla Manufacturing	1,350 employees
3119	Other Food Manufacturing	1,250 employees
Subsector 312 - Beverage and Tobacco Product Manufacturing		
3121	Beverage Manufacturing	1,400 employees
3122	Tobacco Manufacturing	1,500 employees
Subsector 313 - Textile Mills		
3131	Fiber, Yarn, and Thread Mills	1,250 employees
31321	Broadwoven Fabric Mills	1,300 employees
31322	Narrow Fabric Mills and Schiffli Machine Embroidery	750 employees
31323	Nonwoven Fabric Mills	1,350 employees
31324	Knit Fabric Mills	750 employees
3133	Textile and Fabric Finishing and Fabric Coating Mills	1,400 employees
Subsector 314 - Textile Product Mills		
31411	Carpet and Rug Mills	1,550 employees
31412	Curtain and Linen Mills	800 employees
3149	Other Textile Product Mills	1,000 employees
Subsector 315 - Apparel Manufacturing		
3151	Apparel Knitting Mills	1,950 employees
3152	Cut and Sew Apparel Manufacturing	2,650 employees
3159	Apparel Accessories and Other Apparel Manufacturing	1,050 employees
Subsector 316 - Leather and Allied Product Manufacturing		
3161	Leather and Hide Tanning and Finishing	900 employees

3162	Footwear Manufacturing	1,550 employees
3169	Other Leather and Allied Product Manufacturing	1,250 employees
Subsector 321 - Wood Product Manufacturing		
3211	Sawmills and Wood Preservation	2,050 employees
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing	1,250 employees
3219	Other Wood Product Manufacturing	1,500 employees
Subsector 322 - Paper Manufacturing		
3221	Pulp, Paper, and Paperboard Mills	1,500 employees
3222	Converted Paper Product Manufacturing	1,850 employees
Subsector 323 - Printing and Related Support Activities		
3231	Printing and Related Support Activities	1,250 employees
Subsector 324 - Petroleum and Coal Products Manufacturing		
3241	Petroleum and Coal Products Manufacturing	1,500 employees
Subsector 325 - Chemical Manufacturing		
3251	Basic Chemical Manufacturing	1,400 employees
32521	Resin and Synthetic Rubber Manufacturing	1,250 employees
32522	Artificial and Synthetic Fibers and Filaments Manufacturing	1,250 employees
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	1,350 employees
3254	Pharmaceutical and Medicine Manufacturing	2,350 employees
3255	Paint, Coating, and Adhesive Manufacturing	1,200 employees
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	1,250 employees
3259	Other Chemical Product and Preparation Manufacturing	1,500 employees
Subsector 326 - Plastics and Rubber Products Manufacturing		
3261	Plastics Product Manufacturing	2,450 employees
3262	Rubber Product Manufacturing	1,700 employees
Subsector 327 - Nonmetallic Mineral Product Manufacturing		
3271	Clay Product and Refractory Manufacturing	1,000 employees
3272	Glass and Glass Product Manufacturing	1,250 employees
32731	Cement Manufacturing	1,000 employees
32732	Ready-Mix Concrete Manufacturing	550 employees
32733	Concrete Pipe, Brick, and Block Manufacturing	750 employees
32739	Other Concrete Product Manufacturing	550 employees
32741	Lime Manufacturing	1,050 employees
32742	Gypsum Product Manufacturing	1,500 employees
3279	Other Nonmetallic Mineral Product Manufacturing	1,500 employees
Subsector 331 - Primary Metal Manufacturing		
3311	Iron and Steel Mills and Ferroalloy Manufacturing	1,700 employees
33121	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel	1,300 employees
33122	Rolling and Drawing of Purchased Steel	1,200 employees
3313	Alumina and Aluminum Production and Processing	1,450 employees
3314	Nonferrous Metal (except Aluminum) Production and Processing	1,900 employees
33151	Ferrous Metal Foundries	1,200 employees
33152	Nonferrous Metal Foundries	1,200 employees
Subsector 332 - Fabricated Metal Product Manufacturing		
3321	Forging and Stamping	1,500 employees
3322	Cutlery and Handtool Manufacturing	1,250 employees
3323	Architectural and Structural Metals Manufacturing	950 employees
3324	Boiler, Tank, and Shipping Container Manufacturing	1,500 employees
3325	Hardware Manufacturing	1,200 employees
3326	Spring and Wire Product Manufacturing	1,200 employees
	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	1,900 employees
3327		
3328	Coating, Engraving, Heat Treating, and Allied Activities	1,500 employees
3329	Other Fabricated Metal Product Manufacturing	1,500 employees

Subsector 333 - Machinery Manufacturing		
3331	Agriculture, Construction, and Mining Machinery Manufacturing	2,550 employees
3332	Industrial Machinery Manufacturing	1,500 employees
3333	Commercial and Service Industry Machinery Manufacturing	1,000 employees
	Ventilation, Heating, Air-Conditioning, and Commercial	
3334	Refrigeration Equipment Manufacturing	1,250 employees
3335	Metalworking Machinery Manufacturing	1,800 employees
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	1,500 employees
3339	Other General Purpose Machinery Manufacturing	2,200 employees
Subsector 334 - Computer and Electronic Product Manufacturing		
3341	Computer and Peripheral Equipment Manufacturing	2,500 employees
3342	Communications Equipment Manufacturing	2,250 employees
3343	Audio and Video Equipment Manufacturing	2,100 employees
3344	Semiconductor and Other Electronic Component Manufacturing	2,800 employees
	Navigational, Measuring, Electromedical, and Control Instruments	
3345	Manufacturing	2,000 employees
3346	Manufacturing and Reproducing Magnetic and Optical Media	1,250 employees
Subsector 335 - Electrical Equipment, Appliance, and Component Manufacturing		
3351	Electric Lighting Equipment Manufacturing	1,250 employees
3352	Household Appliance Manufacturing	1,500 employees
3353	Electrical Equipment Manufacturing	1,550 employees
3359	Other Electrical Equipment and Component Manufacturing	1,250 employees
Subsector 336 - Transportation Equipment Manufacturing		
3361	Motor Vehicle Manufacturing	3,050 employees
3362	Motor Vehicle Body and Trailer Manufacturing	1,650 employees
3363	Motor Vehicle Parts Manufacturing	3,500 employees
3364	Aerospace Product and Parts Manufacturing	2,800 employees
3365	Railroad Rolling Stock Manufacturing	1,500 employees
3366	Ship and Boat Building	2,300 employees
3369	Other Transportation Equipment Manufacturing	1,500 employees
Subsector 337 - Furniture and Related Product Manufacturing		
	Household and Institutional Furniture and Kitchen Cabinet	
3371	Manufacturing	1,700 employees
3372	Office Furniture (including Fixtures) Manufacturing	1,550 employees
33791	Mattress Manufacturing	1,000 employees
33792	Blind and Shade Manufacturing	1,000 employees
Subsector 339 - Miscellaneous Manufacturing		
3391	Medical Equipment and Supplies Manufacturing	1,600 employees
3399	Other Miscellaneous Manufacturing	1,000 employees
Sector 42 - Wholesale Trade		
Subsector 423 - Merchant Wholesalers, Durable Goods		
	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant	
4231	Wholesalers	900 employees
4232	Furniture and Home Furnishing Merchant Wholesalers	900 employees
4233	Lumber and Other Construction Materials Merchant Wholesalers	550 employees
	Professional and Commercial Equipment and Supplies Merchant	
4234	Wholesalers	1,000 employees
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers	1,050 employees
	Household Appliances and Electrical and Electronic Goods	
4236	Merchant Wholesalers	1,000 employees
	Hardware, and Plumbing and Heating Equipment and Supplies	
4237	Merchant Wholesalers	550 employees
4238	Machinery, Equipment, and Supplies Merchant Wholesalers	1,200 employees
4239	Miscellaneous Durable Goods Merchant Wholesalers	700 employees

Subsector 424 - Merchant Wholesalers, Nondurable Goods

4241	Paper and Paper Product Merchant Wholesalers	1,100 employees
4242	Drugs and Druggists' Sundries Merchant Wholesalers	1,800 employees
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	1,750 employees
4244	Grocery and Related Product Merchant Wholesalers	700 employees
4245	Farm Product Raw Material Merchant Wholesalers	1,800 employees
4246	Chemical and Allied Products Merchant Wholesalers	750 employees
4247	Petroleum and Petroleum Products Merchant Wholesalers	1,000 employees
	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	
4248		500 employees
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	950 employees

Subsector 425 - Wholesale Trade Agents and Brokers

4251	Wholesale Trade Agents and Brokers	700 employees

Sector 44-45 - Retail Trade

Subsector 441 - Motor Vehicle and Parts Dealers

4411	Automobile Dealers	500 employees
4412	Other Motor Vehicle Dealers	750 employees
4413	Automotive Parts, Accessories, and Tire Retailers	500 employees

Subsector 444 - Building Material and Garden Equipment and Supplies Dealers

4441	Building Material and Supplies Dealers	500 employees
4442	Lawn and Garden Equipment and Supplies Retailers	750 employees

Subsector 445 - Food and Beverage Retailers

4451	Grocery and Convenience Retailers	600 employees
4452	Specialty Food Retailers	500 employees
4453	Beer, Wine, and Liquor Retailers	1,050 employees

Subsector 449 - Furniture, Home Furnishings, Electronics, and Appliance Retailers

4491	Furniture and Home Furnishings Retailers	500 employees
4492	Electronics and Appliance Retailers	500 employees

Subsector 455 - General Merchandise Retailers

4551	Department Stores	500 employees
	Warehouse Clubs, Supercenters, and Other General Merchandise Retailers	
4552		550 employees

Subsector 456 - Health and Personal Care Retailers

4561	Health and Personal Care Retailers	500 employees

Subsector 457 - Gasoline Stations and Fuel Dealers

4571	Gasoline Stations	1,150 employees
4572	Fuel Dealers	1,900 employees

Subsector 458 - Clothing, Clothing Accessories, Shoe, and Jewelry Retailers

4581	Clothing and Clothing Accessories Retailers	550 employees
4582	Shoe Retailers	500 employees
4583	Jewelry, Luggage, and Leather Goods Retailers	500 employees

Subsector 459 - Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers

4591	Sporting Goods, Hobby, and Musical Instrument Retailers	500 employees
4592	Book Retailers and News Dealers	500 employees
4593	Florists	500 employees
4594	Office Supplies, Stationery, and Gift Retailers	500 employees
4595	Used Merchandise Retailers	500 employees
4599	Other Miscellaneous Retailers	500 employees

Sector 48-49 - Transportation and Warehousing

Subsector 481 - Air Transportation

4811	Scheduled Air Transportation	1,600 employees
4812	Nonscheduled Air Transportation	1,500 employees

Subsector 482 - Rail Transportation

4821	Rail Transportation	2,300 employees

Subsector 483 - Water Transportation		
4831	Deep Sea, Coastal, and Great Lakes Water Transportation	1,500 employees
4832	Inland Water Transportation	1,200 employees
Subsector 484 - Truck Transportation		
4841	General Freight Trucking	\$245 million in receipts
4842	Specialized Freight Trucking	\$114 million in receipts
Subsector 485 - Transit and Ground Passenger Transportation		
4851	Urban Transit Systems	\$71 million in receipts
4852	Interurban and Rural Bus Transportation	\$92 million in receipts
4853	Taxi and Limousine Service	\$53 million in receipts
4854	School and Employee Bus Transportation	\$31 million in receipts
4855	Charter Bus Industry	\$81 million in receipts
4859	Other Transit and Ground Passenger Transportation	\$121 million in receipts
Subsector 486 - Pipeline Transportation		
4861	Pipeline Transportation of Crude Oil	1,050 employees
4862	Pipeline Transportation of Natural Gas	\$477 million in receipts
4869	Other Pipeline Transportation	1,500 employees
Subsector 487 - Scenic and Sightseeing Transportation		
4871	Scenic and Sightseeing Transportation, Land	\$85 million in receipts
4872	Scenic and Sightseeing Transportation, Water	\$157 million in receipts
4879	Scenic and Sightseeing Transportation, Other	\$117 million in receipts
Subsector 488 - Support Activities for Transportation		
4881	Support Activities for Air Transportation	\$285 million in receipts
4882	Support Activities for Rail Transportation	\$188 million in receipts
4883	Support Activities for Water Transportation	\$671 million in receipts
4884	Support Activities for Road Transportation	\$39 million in receipts
4885	Freight Transportation Arrangement	\$259 million in receipts
4889	Other Support Activities for Transportation	\$126 million in receipts
Subsector 492 - Couriers and Messengers		
4921	Couriers and Express Delivery Services	1,500 employees
4922	Local Messengers and Local Delivery	\$153 million in receipts
Subsector 493 - Warehousing and Storage		
4931	Warehousing and Storage	\$174 million in receipts
Sector 51 - Information		
Subsector 512 - Motion Picture and Sound Recording Industries		
5121	Motion Picture and Video Industries	2,700 employees
5122	Sound Recording Industries	1,200 employees
Subsector 513 - Publishing Industries		
5131	Newspaper, Periodical, Book, and Directory Publishers	2,050 employees
5132	Software Publishers	3,600 employees
Subsector 516 - Broadcasting and Content Providers		
51611	Radio Broadcasting Stations	\$62 million in receipts
51612	Television Broadcasting Stations	\$482 million in receipts
	Media Streaming Distribution Services, Social Networks, and Other	
5162	Media Networks and Content Providers	\$970 million in receipts
Subsector 517 - Telecommunications		
5171	Wired and Wireless Telecommunications (except Satellite)	1,500 employees
5174	Satellite Telecommunications	\$172 million in receipts
5178	All Other Telecommunications	\$221 million in receipts
Subsector 518 - Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services		
	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	
5182		\$402 million in receipts
Subsector 519 - Web Search Portals, Libraries, Archives, and Other Information Services		

5192	Web Search Portals, Libraries, Archives, and Other Information Services	2,950 employees
Sector 52 - Finance and Insurance		
Subsector 522 - Credit Intermediation and Related Activities		
5221	Depository Credit Intermediation	\$5,031 million in assets
5222	Nondepository Credit Intermediation	\$575 million in receipts
5223	Activities Related to Credit Intermediation	\$530 million in receipts
Subsector 523 - Securities Commodity Contracts, and Other Financial Investments and Related Activities		
5231	Securities and Commodity Contracts Intermediation and Brokerage	\$867 million in receipts
5232	Securities and Commodity Exchanges	\$371 million in receipts
5239	Other Financial Investment Activities	\$1,011 million in receipts
Subsector 524 - Insurance Carriers and Related Activities		
5241	Insurance Carriers	\$842 million in receipts
5242	Agencies, Brokerages, and Other Insurance Related Activities	\$214 million in receipts
Subsector 525 - Funds, Trusts, and Other Financial Vehicles		
5251	Insurance and Employee Benefit Funds	\$44 million in receipts
5259	Other Investment Pools and Funds	\$155 million in receipts
Sector 53 - Real Estate and Rental and Leasing		
Subsector 531 - Real Estate		
5311	Lessors of Real Estate	550 employees
5312	Offices of Real Estate Agents and Brokers	\$163 million in receipts
5313	Activities Related to Real Estate	\$177 million in receipts
Subsector 532 - Rental and Leasing Services		
5321	Automotive Equipment Rental and Leasing	\$84 million in receipts
5322	Consumer Goods Rental	500 employees
5323	General Rental Centers	\$31 million in receipts
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	\$299 million in receipts
Subsector 533 - Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)		
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	\$186 million in receipts
Sector 54 - Professional, Scientific, and Technical Services		
Subsector 541 - Professional, Scientific, and Technical Services		
5411	Legal Services	\$248 million in receipts
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services	\$97 million in receipts
54131	Architectural Services	\$135 million in receipts
54132	Landscape Architectural Services	\$59 million in receipts
54133	Engineering Services	\$252 million in receipts
54134	Drafting Services	\$31 million in receipts
54135	Building Inspection Services	\$36 million in receipts
54136	Geophysical Surveying and Mapping Services	\$204 million in receipts
54137	Surveying and Mapping (except Geophysical) Services	\$92 million in receipts
54138	Testing Laboratories and Services	\$156 million in receipts
5414	Specialized Design Services	\$158 million in receipts
5415	Computer Systems Design and Related Services	\$531 million in receipts
5416	Management, Scientific, and Technical Consulting Services	\$295 million in receipts
54171	Research and Development in the Physical, Engineering, and Life Sciences	2,800 employees
54172	Research and Development in the Social Sciences and Humanities	\$246 million in receipts
5418	Advertising, Public Relations, and Related Services	\$543 million in receipts
5419	Other Professional, Scientific, and Technical Services	\$61 million in receipts
Sector 55 - Management of Companies and Enterprises		
Subsector 551 - Management of Companies and Enterprises		

5511	Management of Companies and Enterprises	\$265 million in receipts
Sector 56 - Administrative and Support and Waste Management and Remediation Services		
Subsector 561 - Administrative and Support Services		
5611	Office Administrative Services	\$127 million in receipts
5612	Facilities Support Services	\$156 million in receipts
5613	Employment Services	\$150 million in receipts
5614	Business Support Services	\$206 million in receipts
5615	Travel Arrangement and Reservation Services	\$254 million in receipts
5616	Investigation and Security Services	\$186 million in receipts
5617	Services to Buildings and Dwellings	\$58 million in receipts
5619	Other Support Services	\$104 million in receipts
Subsector 562 - Waste Management and Remediation Services		
5621	Waste Collection	\$47 million in receipts
5622	Waste Treatment and Disposal	\$178 million in receipts
5629	Remediation and Other Waste Management Services	\$113 million in receipts
Sector 61 - Educational Services		
Subsector 611 - Educational Services		
6111	Elementary and Secondary Schools	\$93 million in receipts
6112	Junior Colleges	\$171 million in receipts
6113	Colleges, Universities, and Professional Schools	\$473 million in receipts
6114	Business Schools and Computer and Management Training	\$157 million in receipts
6115	Technical and Trade Schools	\$56 million in receipts
6116	Other Schools and Instruction	\$155 million in receipts
6117	Educational Support Services	\$294 million in receipts
Sector 62 - Health Care and Social Assistance		
Subsector 621 - Ambulatory Health Care Services		
6211	Offices of Physicians	\$101 million in receipts
6212	Offices of Dentists	\$42 million in receipts
6213	Offices of Other Health Practitioners	\$42 million in receipts
6214	Outpatient Care Centers	\$170 million in receipts
6215	Medical and Diagnostic Laboratories	\$140 million in receipts
6216	Home Health Care Services	\$78 million in receipts
6219	Other Ambulatory Health Care Services	\$56 million in receipts
Subsector 622 - Hospitals		
6221	General Medical and Surgical Hospitals	\$144 million in receipts
6222	Psychiatric and Substance Abuse Hospitals	\$95 million in receipts
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$376 million in receipts
Subsector 623 - Nursing and Residential Care Facilities		
6231	Nursing Care Facilities (Skilled Nursing Facilities)	\$60 million in receipts
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities	\$481 million in receipts
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly	\$108 million in receipts
6239	Other Residential Care Facilities	\$71 million in receipts
Subsector 624 - Social Assistance		
6241	Individual and Family Services	\$568 million in receipts
62421	Community Food Services	\$51 million in receipts
62422	Community Housing Services	\$104 million in receipts
62423	Emergency and Other Relief Services	\$470 million in receipts
6243	Vocational Rehabilitation Services	\$101 million in receipts
6244	Child Care Services	\$31 million in receipts
Sector 71 - Arts, Entertainment, and Recreation		
Subsector 711 - Performing Arts, Spectator Sports, and Related Industries		
7111	Performing Arts Companies	\$194 million in receipts

7112	Spectator Sports	\$172 million in receipts
7113	Promoters of Performing Arts, Sports, and Similar Events	\$225 million in receipts
	Agents and Managers for Artists, Athletes, Entertainers, and Other	
7114	Public Figures	\$344 million in receipts
7115	Independent Artists, Writers, and Performers	\$651 million in receipts
	Subsector 712 - Museums, Historical Sites, and Similar Institutions	
71211	Museums	\$111 million in receipts
71212	Historical Sites	\$166 million in receipts
71213	Zoos and Botanical Gardens	\$84 million in receipts
71219	Nature Parks and Other Similar Institutions	\$98 million in receipts
	Subsector 713 - Amusement, Gambling, and Recreation Industries	
7131	Amusement Parks and Arcades	\$374 million in receipts
7132	Gambling Industries	\$744 million in receipts
7139	Other Amusement and Recreation Industries	\$52 million in receipts
	Sector 72 - Accommodation and Food Services	
	Subsector 721 - Accommodation	
7211	Traveler Accommodation	\$503 million in receipts
7212	RV (Recreational Vehicle) Parks and Recreational Camps	\$77 million in receipts
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps	\$39 million in receipts
	Subsector 722 - Food Services and Drinking Places	
7223	Special Food Services	700 employees
7224	Drinking Places (Alcoholic Beverages)	700 employees
7225	Restaurants and Other Eating Places	850 employees
	Sector 81 - Other Services (except Public Administration)	
	Subsector 811 - Repair and Maintenance	
8111	Automotive Repair and Maintenance	\$44 million in receipts
8112	Electronic and Precision Equipment Repair and Maintenance	\$87 million in receipts
	Commercial and Industrial Machinery and Equipment (except	
8113	Automotive and Electronic) Repair and Maintenance	\$393 million in receipts
8114	Personal and Household Goods Repair and Maintenance	\$31 million in receipts
	Subsector 812 - Personal and Laundry Services	
8121	Personal Care Services	\$34 million in receipts
8122	Death Care Services	\$39 million in receipts
8123	Drycleaning and Laundry Services	\$47 million in receipts
8129	Other Personal Services	\$54 million in receipts
	Subsector 813 - Religious, Grantmaking, Civic, Professional, and Similar Organizations	
8131	Religious Organizations	\$76 million in receipts
8132	Grantmaking and Giving Services	\$440 million in receipts
8133	Social Advocacy Organizations	\$394 million in receipts
8134	Civic and Social Organizations	\$242 million in receipts
8139	Business, Professional, Labor, Political, and Similar Organizations	\$632 million in receipts

Kelly Loeffler,

Administrator.

[FR Doc. 2026-17042 Filed 8-19-26; 8:45 am]

BILLING CODE 8026-09-C

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–8785; Project Identifier MCAI–2026–00073–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2025–13–11, which applies to all Dassault Aviation Model FALCON 7X airplanes. AD 2025–13–11 requires replacing the affected spoiler electrical units (SPECUs) and prohibits the installation of affected parts. Since the FAA issued AD 2025–13–11, it was determined that additional SPECUs are subject to the unsafe condition. This proposed AD would continue to require the actions in AD 2025–13–11 and would require replacing additional SPECUs. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 5, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–8785; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material

identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2026–8785.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA 98198. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT:

William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7301; email: *9-AVS-AIR-BACO-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–8785; Project Identifier MCAI–2026–00073–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential

under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7301; email: *9-AVS-AIR-BACO-COS@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2025–13–11, Amendment 39–23077 (90 FR 30588, July 10, 2025) (AD 2025–13–11), for all Dassault Aviation Model FALCON 7X airplanes. AD 2025–13–11 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2024–0224, dated November 26, 2024, to correct an unsafe condition.

AD 2025–13–11 requires replacing the affected SPECUs and prohibits the installation of affected parts. The FAA issued AD 2025–13–11 to address SPECUs that, following certain failures, can deliver an untimely and permanent activation command to the spoiler power control unit (SPPCU) standby electrical pump, which can possibly result in overheating and significant hydraulic leakage of the unit. This condition, if not corrected, could lead to further occurrences of equipment overheating and hydraulic leakage in the fuel equipment bay during ground operations, which could cause uncontrolled fire in that area.

Actions Since AD 2025–13–11 Was Issued

Since the FAA issued AD 2025–13–11, EASA superseded AD 2024–0224, dated November 26, 2024, and issued EASA AD 2026–0016, dated January 26, 2026 (EASA AD 2026–0016) (also referred to as the MCAI), to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. The MCAI states that additional SPECUs are subject to the unsafe condition.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–8785.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2025–13–11, this proposed AD would retain all of the requirements of AD 2025–13–11. Those requirements are referenced in EASA AD 2026–0016,

which, in turn, is referenced in paragraph (g) of this proposed AD.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2026–0016, which specifies procedures for replacing affected SPECUs. EASA AD 2026–0016 also prohibits the installation of affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is

likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2026–0016 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2026–0016 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2026–0016

its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2026–0016 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2026–0016. Material required by EASA AD 2026–0016 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–8785 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 160 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hours × \$85 per hour = \$85	\$22,597	\$22,682	\$3,629,120

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

- a. Removing Airworthiness Directive (AD) 2025–13–11, Amendment 39–23077 (90 FR 30588, July 10, 2025); and
- b. Adding the following new AD:

Dassault Aviation: Docket No. FAA–2026–8785; Project Identifier MCAI–2026–00073–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 5, 2026.

(b) Affected ADs

This AD replaces AD 2025–13–11, Amendment 39–23077 (90 FR 30588, July 10, 2025) (AD 2025–13–11).

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 7X airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by hydraulic leakage from the spoiler power control unit (SPPCU) in service. Relevant investigations determined that, following certain failures, the spoiler electrical control unit (SPECU) can deliver an untimely and permanent activation command to the SPPCU standby electrical pump. This AD was also prompted by a determination that additional SPECUs are subject to the unsafe condition. The FAA is issuing this AD to address the unsafe condition, which if not addressed, could result in further occurrences of equipment overheating and hydraulic leakage in the fuel equipment bay during ground operations, which could cause uncontrolled fire in that area.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2026–0016, dated January 26, 2026 (EASA AD 2026–0016).

(h) Exceptions to EASA AD 2026–0016

(1) Where EASA AD 2026–0016 refers to December 10, 2024 (the effective date of EASA AD 2024–0224), this AD requires using August 14, 2025 (the effective date of AD 2025–13–11).

(2) Where EASA AD 2026–0016 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where EASA AD 2026–0016 defines a serviceable part as an “SPECU, eligible for installation in accordance with Dassault instructions, which is not an affected part”, this AD requires replacing that text with “SPECU, eligible for installation, which is not an affected part”.

(4) This AD does not adopt the “Remarks” section of EASA AD 2026–0016.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2026–0016 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal

inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

For more information about this AD, contact William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7301; email: 9-AVS-AIR-BACO-COS@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2026–0016, dated January 26, 2026.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA 98198. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 17, 2026.

Steven W. Thompson,

Acting Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2026–16961 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–8784; Project Identifier AD–2026–00202–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by a report that large forward cargo door (LFCD) split frames may have been manufactured with a material that did not conform to type design. This proposed AD would require an inspection of the LFCD split frames for affected batch numbers and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 5, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–8784; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2026–8784.

FOR FURTHER INFORMATION CONTACT:

Joseph Hodgins, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–

231–3962; email: joseph.j.hodgin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–8784; Project Identifier AD–2026–00202–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or

responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3962; email: joseph.j.hodgin@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Boeing informed the FAA that it received a notice of escapement (NOE) from a supplier, indicating that LFCD split frames on certain airplanes may have been manufactured with material that did not conform to type design. The sub-tier supplier of the material for these frames did not have the records necessary to show that the type design specified Ti-6Al-4V alloy material was used to manufacture the frames. Use of a material other than specified by type design could result in the inability of a principal structural element (PSE) to sustain limit load and failure of the passenger floor beam to frame attachment, which could result in injury or impeded egress for passengers and crew in a rapid cabin decompression event.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition

described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026. This material specifies procedures for inspecting the LFCD split frames for affected batch numbers and applicable on-condition actions. On-condition actions include replacing each affected LFCD split frame with a new LFCD split frame made of Ti-6Al-4V alloy material.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described, except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this material at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8784.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × \$85 per hour = \$170	\$0	\$170	\$680

The FAA estimates the following costs to do any necessary replacements that would be required based on the

results of the proposed inspection. The agency has no way of determining the

number of airplanes that might need these replacements:

ON-CONDITION COSTS *

Action	Labor cost	Parts cost	Cost per product
Replacement of all 5 LFCD split frames	32 work-hours × \$85 per hour = \$2,720	\$104,100	\$106,820

* The cost of replacement is for one kit that includes all 5 LFCD split frames and the complete hardware for the LFCD cargo door surround.

The FAA has included all known costs in its cost estimate. According to

the manufacturer, however, some or all of the costs of this proposed AD may be

covered under warranty, thereby

reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

The Boeing Company: Docket No. FAA–2026–8784; Project Identifier AD–2026–00202–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 5, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of a supplier notice of escapement (NOE) indicating that large forward cargo door (LFCD) split frames may have been manufactured with material that did not conform to type design. The FAA is issuing this AD to address LFCD split frames that were possibly manufactured with a nonconforming material. The unsafe condition, if not addressed, could result in the inability of a principal structural element (PSE) to sustain limit load and failure of the passenger floor beam to frame attachment, which could result in injury or impeded egress for passengers and crew in a rapid cabin decompression event.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the "Compliance" paragraph of Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB530106–00, Issue 001, dated February 4, 2026, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026.

(h) Exceptions to Requirements Bulletin Specifications

(1) Where the Compliance Time column of the table in the "Compliance" paragraph of

Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026, refers to the Issue 001 date of Requirements Bulletin B787–81205–SB530106–00 RB, this AD requires using the effective date of this AD.

(2) Where flagnote *[1] of Table 1 of the Accomplishment Instructions and of Table 4 of the "Compliance" section of Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026, specifies to "Refer to Appendix A for affected batch numbers", this AD requires replacing that text with "An affected batch number is any number specified in the "Delivered Part Batch Number" or "Detail Part Batch Number" column of Table 1 in Appendix A."

(3) Where Table 1 of Appendix A of Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026, refers to flagnote "[2]", this AD requires replacing that text with "[1]".

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Additional Information

(1) For more information about this AD, contact Joseph Hodgkin, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3962; email: joseph.j.hodgin@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (k)(3) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Requirements Bulletin B787–81205–SB530106–00 RB, Issue 001, dated February 4, 2026.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 17, 2026.

Lona C. Saccomando,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–17056 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8783; Project Identifier MCAI–2025–01768–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022–11–15, which applies to all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent7000–72 and Trent7000–72C engines. AD 2022–11–15 requires initial and repetitive on-wing borescope inspections (BSIs) of the high-pressure turbine (HPT) blades to detect axial cracking and, depending on the results of the inspections, replacement of the HPT blade set. Since the FAA issued AD 2022–11–15, RRD issued updated service material providing improved instructions for inspection of the HPT blades, removing the reduced life limit for affected HPT blades, and revising the HPT blade limits for axial cracking. This proposed AD would continue to require initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking and, depending on the results of the

inspections, replacement of the HPT blade set. This proposed AD would also remove the reduced life limit for affected HPT blades. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by October 5, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–8783; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228–7309; email: alexis.j.whitaker@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA–2026–8783; Project Identifier

MCAI–2025–01768–E” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–11–15, Amendment 39–22065 (87 FR 34767, June 8, 2022) (AD 2022–11–15), for all RRD Model Trent7000–72 and Trent7000–72C engines. AD 2022–11–15 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2021–0169, dated July 19, 2021 (EASA AD 2021–0169) to correct an unsafe condition identified as failure of the HPT blades.

AD 2022–11–15 requires initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking and, depending on the results of the inspections, replacement of the HPT blade set. AD 2022–11–15 also requires

replacement of the HPT blade set before exceeding a specified number of flight cycles. The FAA issued AD 2022–11–15 to prevent failure of the HPT blades.

Actions Since AD 2022–11–15 Was Issued

Since the FAA issued AD 2022–11–15, EASA superseded EASA AD 2021–0169 and issued a series of ADs, each superseding the previous one, with the latest one being EASA AD 2025–0266, dated November 28, 2025 (EASA AD 2025–0266) (also referred to as the MCAI). Since EASA AD 2021–0169 was published, RRD published updated service material providing improved instructions for on-wing BSIs of the HPT blades, removing the reduced life limit for affected HPT blades, and revising limits for axial cracking on the leading edge and convex surface of the HPT blades. The MCAI states that in-service experience revealed that certain HPT blades may prematurely deteriorate to an unacceptable condition when managed in accordance with the inspection intervals defined in the RRD engine time limits manual. To address this potential unsafe condition, the MCAI requires initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking and, depending on the results of the inspections, replacement of the HPT blade set. The MCAI also removes the reduced life limit for affected HPT blades.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8783.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0266, which specifies procedures for performing initial and repetitive on-wing BSIs of the HPT blades to detect axial cracking and, depending on the results of the inspections, removal from service of the engine for in-shop replacement of the HPT blade set.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

These products have been approved by the civil aviation authority (CAA) of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require the actions specified in EASA AD 2025–0266, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0266 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0266 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0266 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0266. Material required by EASA AD 2025–0266 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8783 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 78 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSIs of HPT blades	5 work-hours × \$85 per hour = \$425	\$0	\$425	\$33,150

The FAA estimates the following costs to do any necessary replacements that would be required based on the

results of the proposed inspection. The agency has no way of determining the

number of engines that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of HPT blade set	16 work-hours × \$85 per hour = \$1,360	\$2,001,780	\$2,003,140

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more

detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in

Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive 2022–11–15, Amendment 39–22065 (87 FR 34767, June 8, 2022); and
 - b. Adding the following new airworthiness directive:

Rolls-Royce Deutschland Ltd & Co KG:

Docket No. FAA–2026–8783; Project Identifier MCAI–2025–01768–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 5, 2026.

(b) Affected ADs

This AD replaces AD 2022–11–15, Amendment 39–22065 (87 FR 34767, June 8, 2022) (AD 2022–11–15).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent7000–72 and Trent7000–72C engines as identified in European Union Aviation Safety Agency (EASA) AD 2025–0266, dated November 28, 2025 (EASA AD 2025–0266).

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by in-service experience, which revealed that certain high-pressure turbine (HPT) blades may prematurely deteriorate to an unacceptable condition when managed in accordance with the inspection intervals defined in the RRD engine time limits manual. The FAA is issuing this AD to prevent failure of the HPT blades. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, and loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, EASA AD 2025–0266.

(h) Exceptions to EASA AD 2025–0266

(1) Where EASA AD 2025–0266 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0266 refers to August 2, 2021 (the effective date of EASA AD 2021–0169 at original issue), this AD requires using July 13, 2022 (the effective date of AD 2022–11–15).

(3) Where the Definitions section of EASA AD 2025–0266 specifies “The modification SB: Rolls-Royce Service Bulletin (SB) TRENT 1000 72–K336”, this AD requires replacing that text with “The modification SB: RRD Service Bulletin TRENT 1000 72–K336, Revision 1, dated October 2, 2023”.

(4) This AD does not adopt the “Remarks” paragraph of EASA AD 2025–0266.

(i) No Reporting Requirement

Although the service material referenced in EASA AD 2025–0266 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as

appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228–7309; email: alexis.j.whitaker@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0266, dated November 28, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 17, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–16956 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–117130–25]

RIN 1545–BR85

Application of Section 250(b)(3)(A)(i)(VII) to Sales or Other Dispositions of Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 250 of the Internal Revenue Code (Code) that provide guidance on certain income of a domestic corporation that is excluded in the determination of deduction eligible income. This category of income consists of income and gain from the sale or other disposition of intangible property and any other property of a type that is subject to depreciation, amortization, or depletion. The proposed regulations would affect domestic corporations with foreign-derived deduction eligible income.

DATES: Written or electronic comments must be received by October 5, 2026.

ADDRESSES: Commenters are strongly encouraged to submit comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-117130-25) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket. Send paper submissions to CC:PA:01:PR (REG-117130-25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Stefan A. Pruessmann or Michelle L. Ng at (202) 317-6939 (not a toll-free number); concerning submissions of comments and requests for a public hearing, contact the Publications and Regulations Section by email at publichearings@irs.gov (preferred) or by telephone at (202) 317-6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed additions and amendments to 26 CFR part 1 (proposed regulations) under section 250 of the Code. The provisions of the proposed regulations are issued pursuant to the express delegation of authority under section 250(b)(3)(A)(i)(VII) and (c). The proposed regulations are also issued pursuant to the express delegation of authority under section 7805(a).

Background

I. Overview of Foreign-Derived Deduction Eligible Income

For taxable years beginning after December 31, 2025, section 250(a)(1)

allows a domestic corporation to deduct 33.34 percent of the corporation's foreign-derived deduction eligible income (FDDEI). FDDEI is the deduction eligible income (DEI) of any domestic corporation derived in connection with (i) property sold to any person that is not a United States person and is for a foreign use, or (ii) services provided to any person, or with respect to property, not located within the United States. Section 250(b)(1). Section 250(b)(3)(A) defines DEI as the excess (if any) of a domestic corporation's gross income determined without regard to certain categories of gross income over the expenses and deductions (including taxes), other than interest expense and research or experimental expenditures, properly allocable to such gross income.

II. Changes to Foreign-Derived Deduction Eligible Income Under the One, Big, Beautiful Bill Act

Section 70322(a)(1) of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), amended section 250(b)(3)(A)(i) to add a new category of income that is excluded from the determination of DEI. *See* section 250(b)(3)(A)(i)(VII). Specifically, for purposes of determining DEI and except as otherwise provided by the Secretary, section 250(b)(3)(A)(i)(VII)(aa) and (bb) excludes from gross income any income and gain from the sale or other disposition (including pursuant to the deemed sale or other deemed disposition or a transaction subject to section 367(d)) of intangible property (as defined in section 367(d)(4)), and any other property of a type that is subject to depreciation, amortization, or depletion by the seller, respectively.

Additionally, section 70322(a)(2) of the OBBBA amended section 250(b)(5)(E) (defining the terms “sold,” “sells,” and “sale,” collectively, “sale”) to provide that section 250(b)(5)(E) does not apply for purposes of the new category of gross income excluded from the determination of DEI in section 250(b)(3)(A)(i)(VII).¹ For purposes of section 250(b), except for paragraph (3)(A)(i)(VII) as amended by the OBBBA, the terms “sold,” “sells,” and “sale” included any lease, license, exchange, or other disposition. Section 250(b)(2)(E). Therefore, the general definition of sale under section 250 (which includes leases, licenses, exchanges, or other dispositions) does

¹ Section 250(b)(5)(E) was redesignated section 250(b)(2)(E) by section 70323(b)(2)(B)(ii) of the OBBBA for taxable years beginning after December 31, 2025. Unless otherwise indicated, references to section 250 in this preamble are with respect to section 250, as amended by the OBBBA.

not apply to sales described in section 250(b)(3)(A)(i)(VII).

Section 70322(a)(3) of the OBBBA provides that the amendments to exclude income and gain from certain property sales, and the modification to the general definition of sale, apply to sales or other dispositions (including pursuant to deemed sales or other deemed dispositions or transactions subject to section 367(d)) occurring after June 16, 2025.

Section 70321(a) amended section 250(a)(1) by reducing the percentage of FDDEI permitted to be deducted under section 250 from 37.5 percent to 33.34 percent. Section 70322(b)(1) of the OBBBA amended section 250(b)(3)(A)(ii), which provides rules regarding the deductions properly allocable to DEI. Section 70323(b) of the OBBBA removed the deemed intangible income (DII) and deemed tangible income return (DTIR) components from the computation of foreign-derived intangible income (FDII), replaced “foreign-derived intangible income” with “foreign-derived deduction eligible income,” and made conforming amendments to reflect the revised terms and redesignated provisions, effective for taxable years beginning after December 31, 2025.

III. Notice 2025-78

On December 4, 2025, the Treasury Department and the IRS released Notice 2025-78, 2025-52 I.R.B. 874, describing rules expected to be included in forthcoming proposed regulations addressing the scope of certain property sales or dispositions that are excluded from the determination of DEI under section 250(b)(3)(A)(i)(VII), which, when finalized, would apply to sales or other dispositions occurring after June 16, 2025. However, Notice 2025-78 permitted taxpayers to rely on the rules described therein for sales or other dispositions occurring after June 16, 2025, and before these proposed regulations are published in the **Federal Register**, provided taxpayers apply the rules in their entirety and in a consistent manner for all applicable taxable years.

Explanation of Provisions

I. Overview

Consistent with Notice 2025-78, the proposed regulations would address the meaning and scope of section 250(b)(3)(A)(i)(VII), which, as noted previously, excludes from DEI income and gain from the sale or other disposition of (1) intangible property and (2) other property of a type subject to depreciation, amortization, or

depletion by the seller. The proposed regulations would also modify certain regulations under section 250 to reflect other amendments under the OBBBA and to clarify that FDDEI remains a subset of DEI.

The Treasury Department and the IRS intend to address other changes made by the OBBBA, including with respect to the deductions properly allocable to DEI and the removal of the DTIR and DII from the FDII calculation, in separate guidance.

II. Excluded Property Sales Income

A. In General

Under proposed § 1.250(b)–1(c)(15)(vii), gross DEI would be determined without regard to a new category of gross income, “excluded property sales income.” Proposed § 1.250(b)–1(h) would provide rules to determine whether income and gain from the sale or disposition of certain property to any person is treated as excluded property sales income. Proposed § 1.250(b)–1(h)(1) would define “excluded property sales income” to mean any income and gain derived from the sale or other disposition of two categories of property: intangible property and “other excluded property.”

B. Intangible Property

Section 250(b)(3)(A)(i)(VII)(aa) excludes sales or dispositions of intangible property, as defined in section 367(d)(4), from DEI (and, thus, from FDDEI). Existing regulations under section 250 define intangible property by reference to section 367(d)(4) and specify that, for purposes of section 250, intangible property does not include a copyrighted article as defined in § 1.861–18(c)(3). *See* § 1.250(b)–3(b)(11). Thus, for purposes of section 250, a copyrighted article includes a copy of digital content from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. *See* § 1.861–18(c)(3).

Section 3.01(3) of Notice 2025–78 used the same definition of intangible property as the existing section 250 regulations, including that this term does not include a copyrighted article as described in § 1.861–18(c)(3). Proposed § 1.250(b)–1(h)(1)(i) would provide the same definition of intangible property by reference to § 1.250(b)–3(b)(11). *See* proposed § 1.250(b)–1(h)(1)(i).

Comments in response to Notice 2025–78 requested further clarity on the treatment of software transactions in the context of intangible property and other excluded property. These comments are

addressed below in part II.E of this Explanation of Provisions section.

C. Other Excluded Property

Consistent with section 3.01(4) of Notice 2025–78, the proposed regulations would generally define property of a type that is subject to depreciation, amortization, or depletion (other excluded property) as property that, in the hands of the seller, is or has been of a character subject to the allowance for depreciation, or is or has been subject to an allowance for amortization or depletion. *See* proposed § 1.250(b)–1(h)(2)(ii). Therefore, other excluded property would not include, for example, property that has always been held as inventory by the seller because such property would not be “of a character” subject to the allowance for depreciation.

For property subject to depreciation under section 167, the proposed regulations would adopt the phrase “property of a character subject to the allowance for depreciation under section 167” to interpret the phrase “property of a type that is subject to depreciation” that appears in section 250(b)(3)(A)(i)(VII)(bb). This phrasing is adopted because it is a term of art commonly used to describe property depreciated under section 167, including by Congress in other Code provisions that reference section 167, such as sections 174A(c)(1) (Domestic research or experimental expenditures), 197(f)(7) (Amortization of goodwill and certain other intangibles), 1221(a)(2) (Capital asset defined), and 1231(b)(1) (Property used in the trade or business and involuntary conversions).

Consistent with section 3.01(6) of Notice 2025–78, the proposed regulations would generally provide that other excluded property retains its character in the hands of certain related parties if acquired pursuant to a basis-carryover transaction with a principal purpose of avoiding the application of section 250(b)(3)(A)(i)(VII)(bb). *See* proposed § 1.250(b)–1(h)(3).

A comment in response to Notice 2025–78 requested a “remanufacturing” exception, such that other excluded property would not include previously depreciated property that is materially transformed or remanufactured into property held for sale as inventory. The commenter noted that companies often lease or use high-value assets in their trade or business and later repurpose, remanufacture, or refurbish such property for sale to unrelated foreign customers. The commenter asserted that including gain from property that reflects new investment, value creation, and foreign-market expansion as

excluded property sales income is inconsistent with the treatment of inventory or newly manufactured property, the income and gain from which is not subject to the exclusion in section 250(b)(3)(A)(i)(VII)(bb). The commenter also recommended a depreciation recapture limitation for taxpayers that do not remanufacture property that would limit the portion of the gain from other excluded property to the amount that reflects previously claimed depreciation, with any gain above that amount remaining eligible for DEI and, therefore, FDDEI. Recognizing concerns with related party transactions that obscure prior use or artificially qualify gain for FDDEI, the commenter supported the continued application of the related-party anti-abuse rule under section 3.01(6) of Notice 2025–78, and suggested the depreciation recapture limitation could be inapplicable if the asset was acquired from a related party with a principal purpose of avoiding exclusion.

The proposed regulations would not adopt the requested remanufacturing exception or the depreciation recapture limitation. The Treasury Department and the IRS are of the view that the phrase in section 250(b)(3)(A)(i)(VII)(bb), “other property of a type that is subject to depreciation, amortization, or depletion by the seller,” would include, for example, property that has been subject to *any* depreciation in the hands of the seller. Thus, property previously depreciated in a trade or business and repurposed, remanufactured, or refurbished into inventory would retain its characterization as property subject to depreciation. Furthermore, the requested depreciation recapture limitation is contrary to section 250(b)(3)(A)(i)(VII), which excludes all income and gain from the sale or other disposition of referenced property and does not suggest a limitation to depreciation recapture. As a result, the proposed regulations do not include the requested exception or limitation.

D. Sales or Other Dispositions

As explained in the Background section of this preamble, the general definition of “sale” for section 250 purposes does not apply for purposes of section 250(b)(3)(A)(i)(VII). Instead, and consistent with section 3.01(2) of Notice 2025–78, the proposed regulations would determine a sale or other disposition for this purpose under general Federal income tax principles and include deemed sales, transactions subject to section 367(d), and other deemed dispositions. Accordingly, any transaction or election that is treated as

a sale or other disposition of property for Federal income tax purposes (rather than a sale under the broader definition of “sale” for section 250 purposes that includes leases and licenses) would be considered a sale or other disposition under proposed § 1.250(b)–1(h)(2)(iii).

In order to conform to the statutory changes, the proposed regulations would remove and reserve several examples in § 1.250(b)–4(d)(2)(iv)(B) that involve the sale of intangible property.

E. Software Transactions

Section 1.861–18 provides rules for classifying transactions involving software and other digital content for purposes of section 250 and certain other provisions. § 1.861–18(a)(1). As explained above in part II.B of this Explanation of Provisions section, and consistent with the approach taken in the existing 250 regulations, Notice 2025–78 provided that intangible property does not include a copyrighted article as defined in § 1.861–18(c)(3). Two commenters agreed with the approach to exclude copyrighted articles from intangible property in Notice 2025–78 and requested additional examples and clarifications in the software context.

Commenters requested modifying the facts in Example 1 of Notice 2025–78, which illustrates a software transaction that would be treated as a sale of intangible property, to provide additional details on the form of consideration and the transferee’s use of the property. However, the Treasury Department and the IRS are of the view that the sale versus license determination does not depend on the form of consideration or the transferee’s use of the intangible property. *See* Rev. Rul. 57–40, 1957–1 C.B. 266 (transfer of patent with all substantial rights considered a sale regardless of whether consideration is for productivity, use or disposition of the property transferred); *see also E.I. du Pont de Nemours & Co. v. United States*, 432 F.2d 1052 (3d Cir. 1970). Therefore, the proposed regulations would not modify the facts of Example 1.

One commenter requested an additional example illustrating that the sale of a copyrighted article by a domestic corporation, whether through an electronic or physical medium, should not be considered a sale of intangible property or other excluded property, even if the domestic corporation uses the software in its own business. The commenter also requested an example illustrating that a “lease” of a copyrighted article, where the term of the arrangement to the customer is of a

limited duration, would not be excluded from DEI because there has been no “sale” of property. To provide the additional clarity requested in the software context, the proposed regulations would include the two requested examples. *See* proposed § 1.250(b)–1(h)(4)(ii) (Example 2). The analysis in the first requested example is also illustrated by Example 4 (sale of airplanes) in proposed § 1.250(b)–1(h)(4)(iv).

A comment also requested an additional example illustrating that income or gain from a transfer of a copy of a computer program with a limited duration license is not excluded from DEI. Because the comment relates to the characterization of digital content transactions under § 1.861–18, it is outside the scope of the proposed regulations. Accordingly, the proposed regulations would not include the requested example.

III. Clarification That FDDEI Is a Subset of DEI

As a result of the OBBBA amendments to remove the DTIR and DII components from the calculation and replace “foreign-derived intangible income” with “foreign-derived deduction eligible income,” the foreign-derived ratio in § 1.250(b)–1(c)(13) is no longer needed to compute the deduction under section 250(a)(1). The OBBBA amendments, however, did not modify the definition of FDDEI, including the treatment of FDDEI as a subset of DEI. *See* section 250(b)(1) (“The term ‘foreign-derived deduction eligible income’ means . . . any deduction eligible income which is derived in connection with” certain property and services). Accordingly, the proposed regulations would clarify that FDDEI continues to be limited by the amount of DEI. *See* proposed § 1.250(b)–1(c)(12).

IV. Applicability Dates and Reliance

The Treasury Department and the IRS expect to finalize these proposed regulations by January 4, 2027. Pursuant to the authority conferred by section 7805(b)(2), the proposed regulations are generally proposed to apply to sales or other dispositions (as defined in proposed § 1.250(b)–1(h)(2)(iii)) occurring after June 16, 2025. *See* proposed § 1.250–1(b). However, the proposed amendment to § 1.250(b)–1(c)(12) (clarifying FDDEI is a subset of DEI) would apply to taxable years beginning after December 31, 2025. Taxpayers may rely on the proposed regulations for sales or other dispositions (as defined in proposed § 1.250(b)–1(h)(2)(iii)) before the date final regulations are published in the

Federal Register, provided the taxpayer and its related parties (within the meaning of § 1.250(b)–1(c)(19)) follow the proposed regulations in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The proposed regulations have been designated by the Office of Management and Budget’s (OMB’s) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. OIRA has determined that the proposed rulemaking is significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the Memorandum of Agreement. Accordingly, the proposed regulations have been reviewed by OMB. This rule is expected to be an Executive Order 14192 regulatory action.

A. Background

The Tax Cuts and Jobs Act of 2017 (TCJA), Public Law 115–97, fundamentally revised the U.S. international tax system, including through the enactment of the global intangible low-taxed income (GILTI) regime under section 951A and the FDII deduction under section 250. Congress enacted these provisions in part to reduce incentives for U.S. multinational enterprises to locate or move intangible income abroad, including in low- or zero-tax foreign jurisdictions, and to neutralize tax considerations in choosing whether to serve foreign markets through U.S.-based operations or through CFCs.² Section 250 allows a

² *See* Senate Committee on the Budget, 115th Cong., *Reconciliation Recommendations Pursuant to H. Con. Res. 71* (available at <https://www.govinfo.gov/content/pkg/CPRT-115SPRT27718/pdf/CPRT-115SPRT27718.pdf>). The

domestic corporation a deduction equal to a percentage of its FDDEI, which generally consists of DEI derived from property sold to foreign persons for foreign use, and services provided to persons, or with respect to property, located outside the United States. The section 250 deduction lowers the effective corporate tax rate on qualifying income.³

As enacted in 2017, section 250(b)(3)(A)(i) excluded six categories of income from DEI, including Subpart F inclusions, GILTI, financial services income, dividends from controlled foreign corporations, domestic oil and gas extraction income, and foreign branch income. Until the 2025 enactment of section 250(b)(3)(A)(i)(VII), section 250 did not generally exclude income or gain derived from sales or other dispositions of intangible property or depreciable, amortizable, or depletable business property from DEI. As a result, taxpayers could claim FDII benefits with respect to certain dispositions of such property. This treatment could undermine the policy objectives of the TCJA's changes to the U.S. international tax system, which were principally directed toward curbing erosion of the U.S. tax base through the offshoring of property that generates ongoing foreign-market intangible income.

Section 70322(a)(1) of the OBBBA amended section 250(b)(3)(A)(i) to add a seventh category of income excluded from DEI. Specifically, section 250(b)(3)(A)(i)(VII) excludes from DEI, except as otherwise provided by the Secretary, income and gain from the sale or other disposition of: (i) intangible property within the meaning of section 367(d)(4);⁴ and (ii) other property of a

type that is subject to depreciation, amortization, or depletion by the seller (excluded property sales income). The exclusion addresses a narrow category of transactions where taxpayers could obtain a tax benefit for offshoring their intangible property and business operations.

Section 70322(a)(2) of the OBBBA makes a conforming change to the section 250 definition of "sale." This change prevents the broad section 250 definition of "sale," which generally includes leases, licenses, exchanges, and other dispositions, from applying to the new income exclusion in section 250(b)(3)(A)(i)(VII). As a result, a sale or other disposition for purposes of the income exclusion in section 250(b)(3)(A)(i)(VII) does not include leases and licenses.

Section 70322(a)(3) of the OBBBA provides that these statutory amendments apply to sales or other dispositions occurring after June 16, 2025. In addition to the Secretary's express regulatory authority to determine the scope of the exclusion in section 250(b)(3)(A)(i)(VII), the statute grants express regulatory authority to prescribe regulations necessary or appropriate to carry out the provisions of section 250.

On December 4, 2025, the Treasury Department and the IRS issued Notice 2025–78 announcing the intent to issue proposed regulations under section 250.⁵ The notice provided preliminary guidance addressing the scope of excluded property sales income, and included several definitions and examples illustrating the application of the rules.

B. Need for Proposed Regulations

The proposed regulations provide guidance to taxpayers in applying section 250(b)(3)(A)(i)(VII) to the determination of the type and amount of income eligible for the section 250 deduction. The Treasury Department and the IRS are of the view that regulatory guidance would provide administrable standards, reduce uncertainty, improve consistency among similarly situated taxpayers, and prevent inappropriate claims of FDDEI with respect to income from the disposition of intangible property and business assets that Congress excluded from DEI.

arising from such outbound intangible property transfers is within the scope of the DEI exclusion.

⁵ See 2025–52 I.R.B. 874 at <https://www.regulations.gov/document/IRS-2025-0268-0001>.

C. The Proposed Regulations

Consistent with Notice 2025–78, the proposed regulations provide rules to determine when income and gain from the disposition of property would be treated as excluded property sales income, including any income and gain derived from the sale or other disposition of (i) intangible property, or (ii) property that in the hands of a seller: (a) is or has been treated as property that is of a character subject to the allowance for depreciation under section 167, (b) is or has been subject to an allowance for amortization, or (c) is or has been subject to the allowance for depletion under section 611. In particular, as discussed in the Explanation of Provisions section of this preamble, the proposed regulations would (i) provide definitions consistent with existing statutory and regulatory provisions; (ii) pursuant to the authority granted to the Secretary of the Treasury in section 250(b)(3)(A)(i)(VII) and section 250(c), clarify that income and gain from the sale of copyrighted articles and property that has always been held as inventory by the seller would not be treated as excluded property sales income, with the latter subject to a related party anti-abuse rule; and (iii) modify certain regulations under section 250 to reflect amendments under the OBBBA and clarify that FDDEI remains a subset of DEI.

D. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

E. Economic Effects of the Proposed Regulations

1. Affected Taxpayers

The broadest measure of taxpayers potentially affected by the proposed regulations includes all taxpayers that claim an FDII deduction under section 250 on Form 1120, "U.S. Corporation Income Tax Return" (or any successor form). The Treasury Department and the IRS have determined that between 2018 and 2023, the number of Form 1120 filers that had claimed an FDII deduction has increased from 4,000 to 6,900. The estimated number of FDDEI claimants in 2026 is expected to range from 7,000 to 7,500. However, only a subset of those taxpayers is expected to be affected by the statutory change, and an even smaller subset is expected to be materially affected by the proposed

FDII provision "Reasons for change" state: "[O]ffering similar . . . rates for intangible income derived from serving foreign markets, whether through U.S.-based operations or through CFCs, reduces or eliminates the tax incentive to locate or move intangible income abroad, thereby limiting one margin where the Code distorts business investment decisions."

³ Under the original TCJA version of section 250, the 37.5 percent FDII deduction rate reduced the effective U.S. corporate tax rate on FDII from 21 percent to 13.125 percent. Under current law, the 33.34 percent FDDEI deduction rate reduces the effective U.S. corporate tax rate on FDDEI from 21 percent to 14 percent.

⁴ Section 367(d) generally applies to certain outbound transfers of intangible property by a U.S. person to a foreign corporation in an otherwise nonrecognition transaction. Section 367(d) treats the U.S. transferor as having transferred the intangible property in exchange for deemed payments contingent on the productivity, use, or disposition of the property, which are generally included in income over the useful life of the transferred intangible property. Section 250(b)(3)(A)(i)(VII) expressly includes transactions subject to section 367(d), ensuring that income

regulations relative to the statutory baseline.

TABLE 1—APPROXIMATE NUMBER OF TAXPAYERS CLAIMING AN FDII DEDUCTION, BY YEAR⁶

Tax year	Total number of taxpayers claiming FDII deduction
2018	4,000
2019	4,900
2020	4,700
2021	5,500
2022	6,900
2023	6,900

The statutory amendment excludes certain categories of sales income from DEI, potentially affecting a subset of all FDII claimants, *i.e.*, taxpayers that recognize income or gain from the sale or other disposition of intangible property, or depreciable, amortizable, or depletable property used in a trade or business.

Available data do not allow the Treasury Department and the IRS to

identify the exact transactions or product types that contribute to each taxpayer's FDII deduction. However, Form 8993 reports gross FDDEI by three income categories: sales of general property, sales of intangible property,⁷ and services. Table 2 uses these data to present, by industry, the number of taxpayers claiming an FDII deduction in tax year 2021 and their aggregate gross FDDEI by income category.

Gross FDDEI is narrowed further by taking into account allocated and apportioned deductions to get to net FDDEI, the income base on which the section 250 deduction is computed.

Accordingly, gross FDDEI exceeds net FDDEI, a portion of which becomes the final section 250 deduction amount. In tax year 2021, taxpayers reported \$912 billion of aggregate gross FDDEI, as shown in Table 2, compared to \$112 billion of aggregate section 250 deductions for FDII.⁸

With these limitations in mind, the gross FDDEI data nevertheless provide useful information about the industries

in which affected transactions are more likely to arise. Firms in certain industries are more likely to be affected by the statute because they generate income from intangible property or use production assets that are depreciable, amortizable, and depletable. Firms in the Information industry (*e.g.*, publishers and software producers) are more likely to engage in transactions involving intangible property. In 2021, 9 percent of all firms claiming a FDII deduction (about 500 by count) are characterized as such, and they account for 55 percent of the gross FDDEI derived from all sales of intangible property. Similarly, firms in the Manufacturing industry may be more likely to use and sell assets that are depreciable, amortizable and depletable.⁹ In 2021, 31 percent of all firms claiming a FDII deduction (about 1,710 by count) are characterized as manufacturing firms, and they account for 46 percent of the gross FDDEI derived from all sales of general property.

TABLE 2—TAXPAYERS CLAIMING A FDII DEDUCTION IN TAX YEAR 2021, BY INDUSTRY¹⁰

[Panel A—taxpayer counts and gross FDDEI amounts]

Industry	Count	Total gross FDDEI (\$B)	Gross FDDEI by type (\$B)		
			General property	Intangible property	Services
Commodities and Trade	2,080	\$257	\$167	\$30	\$60
Manufacturing	1,710	343	189	76	77
Services	1,020	36	4	12	20
Information	500	248	45	150	53
Finance and Holding Companies	190	27	3	5	19
Total	5,500	912	409	273	230

PANEL B—SHARES OF TOTAL

Industry	Count (%)	Total gross FDDEI (%)	Gross FDDEI by type		
			General property (%)	Intangible property (%)	Services (%)
Commodities and Trade	38	28	41	11	26
Manufacturing	31	38	46	28	34
Services	19	4	1	4	9
Information	9	27	11	55	23
Finance and Holding Companies	3	3	1	2	8

⁶ Taxpayer counts are rounded to the nearest hundred, and based on tax filings of Forms 1120, 8993, and 1118.

⁷ Sales of intangible property, as reported in Form 8993, includes income from leases and licenses, which income is not subject to the exclusion in section 250(b)(3)(A)(i)(VII).

⁸ See <https://www.irs.gov/pub/irs-soi/21it02sec250ind.xlsx>.

⁹ For example, a domestic corporation that uses machinery in its manufacturing business may claim depreciation deductions with respect to that machinery. Income or gain from the later sale or other disposition of that machinery may be excluded from DEI under section 250(b)(3)(A)(i)(VII)(bb).

¹⁰ Taxpayer counts are rounded to the nearest ten and based on tax filings of Forms 8993 in tax year

2021. Industries are defined at the 2-digit NAICS-level and grouped as follows: Commodities and Trade (11, 21, 22, 42, 44, 45, 46, 48, 49, 56); Manufacturing (23, 31, 32, 33); Services (54, 61, 62, 71, 72, 81); Information (51); and Finance and Holding Companies (52, 53, 55). Total gross FDDEI amounts are aggregated using Form 8993, Part II, line 11.

The population materially affected by the proposed regulations would be narrower. The proposed regulations primarily affect taxpayers whose transactions raise interpretive or characterization issues addressed in the regulations. The subset of taxpayers materially affected by the proposed regulations, relative to the statutory baseline, likely includes taxpayers with transactions involving copyrighted articles and taxpayers disposing of mixed-use property.

While the Treasury Department and the IRS do not have the data or models required to precisely estimate the number of taxpayers affected by the proposed regulations, they expect the proposed regulations to primarily affect taxpayers that currently claim FDII deductions on income and gain derived from significant asset disposition transactions. The proposed regulations are not expected to materially affect corporations that do not claim FDII deductions; do not engage in significant sales or other dispositions of property of a type that is subject to depreciation, amortization, or depletion (other excluded property); and do not engage in transactions involving the interpretive issues addressed by the proposed regulations.

2. Economic Effects

The proposed regulations are expected to provide clarity and certainty regarding the treatment of income and gains from sales of copyrighted articles (including software), and inventory. Taken together, the proposed regulations would reduce inconsistent treatment among similarly situated taxpayers, legal disputes arising from ambiguous reading of the statute, compliance costs associated with uncertain tax positions, and incentives to structure transactions to exploit ambiguity.

a. Clarify Meanings of Relevant Terms

The proposed regulations clarify two sets of terms that determine the scope of excluded property sales income under section 250(b)(3)(A)(i)(VII). First, the proposed regulations clarify that, for purposes of this exclusion, a “sale or other disposition” is determined under general tax principles and does not include a transaction characterized as a lease or license. Second, the proposed regulations define other excluded property by reference to existing depreciation, amortization, depletion, and inventory concepts, rather than creating a new section 250-specific property classification regime.

i. Clarify the Meaning of “Sale”

The statute amends the definition of “sale” in section 250 to provide that the broad section 250 definition of sale, which includes any lease, license, exchange or other disposition, does not apply for purposes of the income exclusion in section 250(b)(3)(A)(i)(VII). In other words, Congress indicated that the income exclusion in section 250(b)(3)(A)(i)(VII) should apply only to transactions that are treated as sales or other dispositions (including deemed sales and dispositions), and not to other categories of transactions, such as those characterized as leases or licenses.

Consistent with Notice 2025–78, the proposed regulations would further clarify this distinction and provide that a sale or other disposition for purposes of section 250(b)(3)(A)(i)(VII) is determined under general Federal income tax principles and includes deemed sales, deemed dispositions, and transactions subject to section 367(d). A transaction characterized as a lease or license under general tax principles would not be treated as a sale or other disposition, and income from such transactions would therefore not be excluded from DEI under section 250(b)(3)(A)(i)(VII), although the income would remain subject to the other requirements and limitations of section 250.

This clarification is expected to reduce uncertainty for taxpayers that earn income from software, technology, intellectual property, equipment leasing, and other arrangements that may involve both sale and license or lease features. It provides a clear distinction between disposition income, which Congress excluded from DEI, and income from lease or license arrangements, which may remain in DEI if it otherwise qualifies. This distinction is particularly relevant for owners of intangible property because taxpayers may exploit intellectual property through several different transaction forms, including outright sales, transfers of copyright rights, licenses, and transactions that are treated as services or cloud transactions under existing rules. Some of these transaction forms may generate the type of foreign-market income that Congress intended to encourage through the section 250 deduction, while others may involve dispositions that facilitate the offshoring of intellectual property or business assets and are therefore excluded from DEI under section 250(b)(3)(A)(i)(VII).

The proposed approach allows taxpayers to apply existing general Federal income tax principles to determine whether a transaction is a

sale or other disposition for purposes of section 250(b)(3)(A)(i)(VII). An alternative framework would be to create a separate section 250-specific characterization regime, including rules identifying particular categories of transactions that would or would not qualify as sales or other dispositions. The Treasury Department and the IRS do not view this as a sound alternative. Such a regime would introduce special classification rules for a narrow purpose, increasing compliance burdens, administrative complexity, and disputes over economically similar transactions. It also would need to be coordinated with OBBBA’s conforming amendment to the section 250 definition of sale, which prevents the broad, general section 250 definition of sale from applying for purposes of section 250(b)(3)(A)(i)(VII). By relying instead on general tax principles, the proposed regulations reduce the need for taxpayers to characterize the same transaction differently for section 250 than for other Federal income tax purposes.

Accordingly, under the proposed regulations, excluded property sales income does not include income or gain from the lease or license of property. This approach avoids collapsing the statutory distinction between a disposition of property and an ordinary lease or license arrangement. For example, treating license income as excluded sales income could cause a taxpayer earning royalties from a license of intangible property to be treated the same as a taxpayer that sells the underlying intangible property, even though the legal and economic consequences of those transactions may differ materially. This could create distortions among transaction forms and overextend the exclusion beyond income and gain from sales or other dispositions of specified property.

ii. Provide Definitions Consistent With Existing Statutory and Regulatory Provisions

The proposed regulations generally define the key categories of other excluded property by reference to existing statutory and regulatory concepts. Other excluded property would include property that is not intangible property and that, in the hands of the seller, is or has been treated as property of a character subject to the allowance for depreciation under section 167, is or has been subject to an allowance for amortization, or is or has been subject to the allowance for depletion under section 611. Therefore, property that has always been held as inventory by the seller would not be

other excluded property because such property has not been “of a character” subject to the allowance for depreciation. The proposed regulations also coordinate this definition with the existing definitions of intangible property and copyrighted articles.

Using existing statutory and regulatory concepts is expected to reduce administrative burden.

Taxpayers generally already classify property for purposes of depreciation, amortization, depletion, inventory accounting, and gain characterization. By relying on familiar concepts, the proposed regulations reduce the need for taxpayers to apply a new property classification system solely for section 250. This approach also promotes consistent treatment between section 250 and other Federal income tax provisions that already determine whether property is depreciable, amortizable, depletable, inventory, or intangible property.

The direct definitional approach is expected to be particularly helpful for taxpayers with mixed categories of property, including manufacturers, software companies, natural resource businesses, and taxpayers that hold both business-use assets and inventory. These taxpayers may sell property that is depreciable in one context but inventory in another. The proposed regulations would provide a more targeted rule by focusing on the character of the property in the hands of the seller and by distinguishing ordinary-course inventory sales from dispositions of the seller’s own depreciable, amortizable, or depletable business assets.

The proposed definitions are also expected to reduce disputes over borderline property categories. Without regulatory clarification, taxpayers could take inconsistent positions regarding whether section 250(b)(3)(A)(i)(VII)(bb) applies to fully depreciated property, amortizable property, depletable property, software, inventory, or property that changes use before sale. The proposed regulations would reduce these uncertainties by providing definitions tied to established Code provisions and by adding targeted rules for related-party transfers and reclassified property.

b. Clarify Intangible Property Does Not Include Copyrighted Articles

The proposed regulations would clarify that, for purposes of section 250(b)(3)(A)(i)(VII)(aa), intangible property does not include a copyrighted article. This rule distinguishes between a disposition of copyright rights, which may be excluded from DEI as a sale or

other disposition of intangible property, and a sale of an article embodying copyrighted content, which is not excluded from DEI solely because the article is protected by copyright. A copyrighted article may nevertheless be excluded from DEI if the separate exclusion for property of a type subject to depreciation, amortization, or depletion applies.

Ideally, the Treasury Department and the IRS would estimate the economic effect of this clarification using tax return data that directly identify FDDEI attributable to sales of copyrighted articles. Available tax return data do not separately identify those transactions. The Treasury Department and the IRS therefore considered industry information as a proxy for identifying taxpayers more likely to engage in affected transactions, given that certain businesses are more likely than others to sell copyrighted articles. This proxy is necessarily imperfect: taxpayers within an industry may earn income from multiple activities, and only some of those activities may involve sales of copyrighted articles. Nonetheless, industry information can help assess the size of the relevant taxpayer population.

Taxpayers in the Information industry are expected to be among the taxpayers most likely to be affected because they are more likely than taxpayers in other industries to sell software, digital media, publications, or other products embodying copyrighted content. As noted above, in 2021 approximately 500 taxpayers claiming an FDII deduction, or 9 percent of the total, were in the Information industry. Total gross FDDEI reported by FDII claimants in the information industry totaled \$248 billion, \$150 billion of which was FDDEI from sales of intangible property, which likely includes sales of copyrighted software and other digital content.

The principal economic effect of this rule is expected to be increased certainty. Absent clarification, taxpayers could interpret the statutory reference to section 367(d)(4) intangible property to include copyrighted articles merely because the articles embody copyrighted content. That interpretation could create uncertainty for taxpayers that sell software copies, publications, or other copyrighted products to foreign customers. The proposed regulations would reduce that uncertainty by applying the existing Federal income tax distinction between copyright rights and copyrighted articles.

The clarification is also expected to reduce distortions across transaction forms. Producers of software and digital-content products may earn revenue

through multiple formats, including sales of copies, licenses, cloud transactions, services, and transfers of copyright rights. Treating sales of copyrighted articles as excluded property sales income solely because the articles embody copyrightable content could disadvantage sales of copyrighted articles relative to other transaction forms, including certain licenses, cloud transactions, and services. That result would not align with the statutory exclusion, which is directed at dispositions of intangible property rather than ordinary-course sales of copyrighted articles. The proposed regulations reduce this risk by preserving potential DEI treatment for qualifying foreign sales of copyrighted articles while continuing to exclude dispositions of the underlying copyright or other section 367(d)(4) intangible property.

Relative to the baseline, the proposed rule is expected to reduce inconsistent treatment among similarly situated taxpayers, reduce disputes over the characterization of software and digital-content transactions, and reduce incentives to structure transactions based on uncertainty over whether a copyrighted article is treated as intangible property. Any affected amount of income would depend on the volume of foreign sales of copyrighted articles, the extent to which those sales otherwise satisfy the FDDEI requirements, and the extent to which taxpayers sell or otherwise dispose of copyright rights rather than copyrighted articles.

c. Clarify Other Excluded Property Does Not Include Inventory

Section 250(b)(3)(A)(i)(VII)(bb), as added by OBBBA, excludes from DEI, except as otherwise provided by the Secretary, income and gain from the sale or other disposition of other excluded property. The proposed regulations would clarify that other excluded property means property that is or has been of a character subject to the allowance for depreciation, or is or has been subject to an allowance for amortization or depletion. Therefore, other excluded property would not include property that has always been held as inventory by the seller and has not been “of a character” subject to the allowance for depreciation. This inventory carveout is particularly relevant for manufacturers and other producers that use depreciable assets as means of production and sell products that may themselves be depreciable in the hands of the purchaser.

Without this clarification, taxpayers could interpret section

250(b)(3)(A)(i)(VII)(bb) to exclude income and gain from sales of ordinary-course inventory from DEI, merely because the property sold is of a kind that could be depreciated, amortized, or depleted by the seller. For example, a manufacturer may sell aircraft, machinery, equipment, vehicles, software copies, or other business-use products to foreign customers. Although such property may serve as means of production and therefore be of a type subject to depreciation, amortization, and depletion in the hands of the seller, income from the seller's ordinary-course inventory sales is the type of foreign-market sales income that section 250 is generally designed to identify as potentially eligible for FDDEI treatment, provided the other statutory and regulatory requirements are satisfied.

The Treasury Department and the IRS expect this clarification to reduce uncertainty for taxpayers engaged in manufacturing, distribution, and other businesses that sell inventory or similar property for foreign use. In particular, this clarification avoids uncertainty in the application of the statutory exclusion. If inventory were treated as other excluded property solely because the property is of a type that could be depreciated, amortized, or depleted by the seller, then the exclusion could apply broadly to ordinary foreign-market sales of manufactured products. Such a broad exclusion could substantially narrow the category of income that would otherwise be considered as FDDEI, which would dampen the intended incentive for domestic corporations to serve foreign markets from the United States. The asset-by-asset approach adopted in the proposed regulation instead distinguishes between a seller's disposition of its own business assets and the seller's ordinary-course sales of inventory, achieving the goal of discouraging dispositions of production assets that Congress determined should not give rise to FDDEI, while preserving the treatment of ordinary-course inventory sales for foreign use.

The proposed regulations also include a related-party anti-abuse rule intended to prevent taxpayers from using the inventory clarification to avoid excluded property sales income treatment through related-party transactions. The inventory clarification is intended to preserve DEI treatment for legitimate ordinary-course sales of inventory to foreign customers, not to permit taxpayers to avoid the statutory exclusion by moving depreciable, amortizable, or depletable property through related parties or intermediary entities before sale.

Under this rule, property generally retains its other excluded property character when it is transferred within a modified affiliated group in a basis-carryover transaction, if the transfer has a principal purpose of avoiding the exclusion for other excluded property. Thus, a taxpayer could not avoid the income exclusion set forth in section 250(b)(3)(A)(i)(VII)(bb) merely by transferring depreciable, amortizable, or depletable property to a related party that holds the property as inventory before selling it to a foreign customer. This rule serves as a backstop to the inventory clarification, so that the clarification protects ordinary-course inventory sales without allowing taxpayers to convert excluded property sales income into FDDEI through related-party reclassification or similar transactions. The related party anti-abuse rule is expected to reduce incentives for taxpayers to transfer depreciable property through nonrecognition or basis-carryover transactions, reclassify other excluded property through intermediary entities, or otherwise structure related-party transactions to convert excluded property sales income into FDDEI.

Together, these rules are expected to improve consistency between the economic substance of a transaction and its treatment for DEI purposes. They may reduce tax planning activity associated with asset characterization and related-party transfers, reduce disputes over whether inventory treatment should be respected for DEI purposes, and reduce the likelihood that similarly situated taxpayers will take inconsistent positions. The principal compliance effect is expected to be the need for taxpayers engaging in related-party transfers, basis-carryover transactions, or inventory reclassification transactions to evaluate whether the rules apply and maintain records supporting their treatment.

The economic effects of not treating ordinary course inventory sales as excluded property sales income are expected to be concentrated in industries with significant foreign sales of tangible products or software and digital products, including manufacturing, transportation equipment, industrial machinery, electronics, pharmaceuticals, and software. In 2021, 1,710 taxpayers from the Manufacturing industry (broadly defined) claimed a FDII deduction, representing 31 percent of all FDII deduction claimants. Total gross FDDEI reported by FDII claimants in the Manufacturing industry totaled \$343 billion, \$189 billion of which was FDDEI from sales of general property,

which likely includes sales of inventory or productive assets.

d. Summary

Based on the available models and data, the Treasury Department and the IRS estimate that the economic costs and benefits of the proposed regulations would be small. The Treasury Department and the IRS invite public comments and additional data on the economic effects that would result from these proposed regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The collections of information in these proposed regulations include recordkeeping requirements that are necessary for domestic corporations to properly exclude certain income and gain from the sale or disposition of property from DEI. These collections will be used by IRS for tax compliance purposes.

These proposed regulations contain rules to determine whether income and gain from the sale or disposition of certain property is excluded from DEI. Taxpayers should maintain records sufficient to substantiate compliance with the exclusion rules. These recordkeeping requirements are considered general tax records under § 1.6001–1(e). For PRA purposes, general tax records are already approved by OMB under 1545–0123 for business filers.

III. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis that will describe the impact of the proposed rule on small entities. See 5 U.S.C. 603(a). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a substantial economic impact on a substantial number of small entities. A small entity is defined as a small business, small nonprofit organization,

or small governmental jurisdiction. See U.S.C. 601(3) through (6).

It is hereby certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities. These regulations affect domestic corporations with foreign-derived deduction eligible income. Although data are not readily available, the Treasury Department and the IRS have determined that the regulations may affect a substantial number of small entities. The Treasury Department and the IRS do not expect that the proposed regulations will have a significant economic impact on affected small entities within the meaning of sections 601(3) through (6) of the RFA. The proposed regulations provide guidance on certain excluded property sales income from deduction eligible income under section 250 but do not change the economic impact of the existing regulations or impose any new costs on small entities. Notwithstanding this certification, the Treasury Department and the IRS welcome comments from the public about the impact of these regulations on small entities.

IV. Submission to the Small Business Administration

Pursuant to section 7805(f) of the Code, the proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately \$214 million. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and

funding requirements of section 6 of the Executive Order. The proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive Order.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written or electronic comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. Comments are requested on all aspects of the proposed regulations.

All comments will be available at <http://www.regulations.gov> or upon request. Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule will also be available at <http://www.regulations.gov>. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. Requests for a public hearing are encouraged to be made electronically. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

For copies of recently issued Revenue Procedures, Revenue Rulings, Notices, and other guidance published in the Internal Revenue Bulletin, please visit the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these regulations are Stefan A. Pruessmann and Michelle L. Ng of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order for § 1.250(b)–1(h) to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 1.250(b)–1(h) also issued under 26 U.S.C. 250(b)(3)(A)(i)(VII).

* * * * *

■ **Par. 2.** Section 1.250–0 is amended by adding an entry for § 1.250(b)–1(h) to read as follows:

§ 1.250–0 Table of contents.

* * * * *

§ 1.250(b)–1 Computation of foreign-derived intangible income (FDII).

* * * * *

(h) Excluded property sales income.

(1) Scope.

(2) Definitions.

(i) Excluded seller.

(ii) Other excluded property.

(iii) Sale or other disposition.

(3) Related party anti-abuse rule.

(i) In general.

(ii) Modified affiliated group.

(4) Examples.

* * * * *

■ **Par. 3.** Section 1.250–1 is amended by adding three new sentences at the end of paragraph (b) to read as follows:

§ 1.250–1 Introduction.

* * * * *

(b) * * * Sections 1.250(b)–1(c)(15)(vii), 1.250(b)–1(h), and the last two sentences in § 1.250(b)–3(b)(16) apply to sales or other dispositions (as defined in § 1.250(b)–1(h)(2)(iii)) occurring after June 16, 2025. Section 1.250(b)–1(c)(12) applies to taxable years beginning after December 31, 2025. For rules that apply to taxable years beginning on or before December 31, 2025, see § 1.250(b)–1(c)(12) as contained in 26 CFR part 1 revised as of April 1, 2026.

■ **Par. 4.** Section 1.250(b)–1 is amended by:

■ 1. Adding a sentence at the end of paragraph (a);

■ 2. Revising paragraph (c)(12);

■ 3. Removing the second “and” from paragraph (c)(15)(v);

■ 4. Removing the period at the end of paragraph (c)(15)(vi) and adding the language “; and” in its place;

■ 5. Adding new paragraph (c)(15)(vii); and

■ 6. Adding new paragraph (h).

The additions and revision read as follows:

§ 1.250(b)–1 Computation of foreign-derived intangible income (FDII).

(a) * * * Paragraph (h) of this section provides rules regarding excluded property sales income.

* * * * *

(c) * * *

(12) The term *foreign-derived deduction eligible income* or *FDDEI* means, with respect to a domestic

corporation for a taxable year, the excess (if any, and not to exceed DEI) of the corporation's gross FDDEI for the year, over the deductions properly allocable to gross FDDEI for the year, as determined under paragraph (d)(2) of this section.

* * * * *

(15) * * *

(vii) Excluded property sales income (as defined in paragraph (h) of this section).

* * * * *

(h) *Excluded property sales income.*—

(1) *Scope.* This paragraph (h) provides rules for determining “excluded property sales income,” which consists of certain income and gain excluded from DEI under section 250(b)(3)(A)(i)(VII) and paragraph (c)(15)(vii) of this section. Except as provided in paragraph (h)(3) of this section, the term *excluded property sales income* means any income and gain derived from the sale or other disposition (as defined in paragraph (h)(2)(iii) of this section) of the following—

(i) Intangible property (as defined in § 1.250(b)–3(b)(11)); or

(ii) Other excluded property (as defined in paragraph (h)(2)(ii) of this section).

(2) *Definitions.* This paragraph (h)(2) provides definitions that apply for purposes of this paragraph (h).

(i) *Excluded seller.* The term *excluded seller* means the domestic corporation or partnership (whether domestic or foreign) that sells or otherwise disposes of intangible property or other excluded property.

(ii) *Other excluded property.* The term *other excluded property* means property that is not intangible property under paragraph (h)(1)(i) of this section and that, in the hands of the excluded seller—

(A) Is or has been property that is of a character subject to the allowance for depreciation under section 167;

(B) Is or has been subject to an allowance for amortization that is not described in paragraph (h)(2)(ii)(A) of this section; or

(C) Is or has been subject to the allowance for depletion under section 611.

(iii) *Sale or other disposition.* The term *sale or other disposition* means a sale or other disposition as determined under general Federal income tax principles, including deemed sales, other deemed dispositions, and transactions subject to section 367(d). A deemed sale or other deemed disposition includes any transaction or election that is treated as a sale or other

disposition of property for Federal income tax purposes. A sale or other disposition does not include a transaction that would be characterized under general tax principles as a lease or license. See paragraphs (h)(4)(i)(C) and (ii)(C) of this section (*Examples 1 and 2*). For purposes of §§ 1.250(b)–3 through 1.250(b)–6, see the definition of “sale” under § 1.250(b)–3(b)(16).

(3) *Related-party anti-abuse rule.* (i) *In general.* Property that was other excluded property in the hands of a member of the excluded seller's modified affiliated group is treated as other excluded property with respect to the excluded seller, if the excluded seller acquires that property—

(A) In a transaction (or series of transactions) in which the basis of the property is determined, in whole or in part, by reference to the basis in the hands of the member in whose hands the property was other excluded property; and

(B) With a principal purpose of avoiding the application of section 250(b)(3)(A)(i)(VII)(bb).

(ii) *Modified affiliated group.* Solely for purposes of this paragraph (h)(3), the term *modified affiliated group* has the meaning given in paragraph (c)(17) of this section but without the substitution of “more than 50 percent” for “at least 80 percent” each place it appears, and by substituting “at least 80 percent” for “more than 50 percent” for purposes of determining control within the meaning of section 954(d)(3).

(4) *Examples.* The following examples illustrate the application of this paragraph (h).

(i) *Example 1: Sale of intangible property.*—(A) *Facts.* DC, a domestic corporation, owns the copyright to a computer program, Program X. DC enters into an agreement with FP, an unrelated foreign person, under which DC grants FP an exclusive irrevocable license for the remaining term of the copyright, to copy and distribute an unlimited number of copies of Program X, prepare derivative works based upon Program X, make public performances of Program X, and publicly display Program X. FP will pay DC a royalty each year equal to y percent of net revenue derived from exploiting Program X during the year, for the remaining term of the copyright. Under general tax principles, DC is treated as having sold the copyright to Program X, notwithstanding that the agreement is labeled a license.

(B) *Analysis.* The copyright to Program X is intangible property within the meaning of § 1.250(b)–3(b)(11). Because DC has sold intangible property (the copyright) under general tax

principles (including under § 1.861–18(f)(1)), DC's income or gain resulting from the sale is excluded property sales income.

(C) *Alternative facts—license.* The facts are the same as in paragraph (h)(4)(i)(A) of this section, except the license from DC to FP is a nonexclusive revocable license for the remaining term of the copyright and, therefore, is treated as a license under general tax principles (including § 1.861–18(f)(1)). DC's income or gain resulting from the license is not excluded property sales income.

(ii) *Example 2: Sale of copyrighted article.*

(A) *Facts.* DC, a domestic corporation, owns the copyright to a computer program, Program X. DC transfers copies of Program X to unrelated foreign customers who receive the right to use the copies in perpetuity. DC also uses different copies of Program X in its own trade or business. DC has never used the copies of Program X it transfers to unrelated foreign customers in DC's own trade or business.

(B) *Analysis.* DC's income or gain from the transfer of copies of Program X, whether through an electronic or physical medium, is from the sale of copyrighted articles, as defined in § 1.861–18(c)(3). The copies of Program X are not intangible property because intangible property does not include copyrighted articles. See § 1.250(b)–3(b)(11). The copies of Program X sold to unrelated foreign customers are not other excluded property because, in the hands of DC, those copies of Program X are not property that is of a character subject to the allowance for depreciation under section 167 or amortization. The fact that DC also uses copies of Program X in its business does not affect this analysis, even if DC's internal use copies are other excluded property. Therefore, DC's income or gain from the sales of copies of Program X to unrelated foreign customers is not excluded property sales income.

(C) *Alternative facts—lease of a copyrighted article.* The facts are the same as in paragraph (h)(4)(ii)(A) of this section, except that the unrelated foreign customers receive the right to use the copy of Program X for a period of only two years. The transfers of the copies of Program X to unrelated foreign customers are properly classified as leases of copyrighted articles under § 1.861–18(f)(2). Therefore, because there has been no sale or other disposition of other excluded property, DC's income or gain from the lease of copies of Program X is not excluded property sales income.

(iii) *Example 3: Sale of fully depreciated property*—(A) *Facts.* DC, a domestic corporation, holds a machine for use in its trade or business. The machine has an adjusted depreciable basis of zero because it has been fully depreciated under section 167. During the taxable year, DC sells the machine to FP, an unrelated foreign person.

(B) *Analysis.* In the hands of DC, the machine is treated as property that is of a character subject to the allowance for depreciation under section 167. Therefore, the machine constitutes other excluded property, and DC's income or gain from the sale of the machine to FP is excluded property sales income.

(C) *Alternative facts—nonrecognition transaction.* The facts are the same as in paragraph (h)(4)(iii)(A) of this section, except that DC acquired the machine in a nonrecognition transaction for use in DC's trade or business and, at the time of the acquisition, the machine was fully depreciated by the previous owner. Notwithstanding the fact that the machine was not depreciated in the hands of DC (because it had been fully depreciated when acquired by DC), the machine is property that is of a character subject to the allowance for depreciation under section 167 in the hands of DC. Therefore, DC's income or gain from the sale of the machine to FP is excluded property sales income.

(iv) *Example 4: Sales of inventory and other excluded property used in a trade or business*—(A) *Facts.* DC, a domestic corporation, owns 100 airplanes. DC holds five of the airplanes for use in its trade or business and, accordingly, the planes are property that is of a character subject to the allowance for depreciation under section 167. DC holds the remaining 95 airplanes in inventory. During the taxable year, DC sells to FP, an unrelated foreign person, two airplanes that DC uses in its trade or business and 35 airplanes that DC holds in inventory.

(B) *Analysis.* DC's sales of the two airplanes are sales of other excluded property because the two airplanes are property that is of a character subject to the allowance for depreciation under section 167. Therefore, DC's income or gain from the sales of the two airplanes is excluded property sales income. DC's sales of the 35 airplanes to FP are not sales or other dispositions of other excluded property because the 35 airplanes are held as inventory and are not property that is of a character subject to the allowance for depreciation under section 167. Therefore, DC's income or gain from the sales of the 35 airplanes is not excluded property sales income.

(v) *Example 5: Sales involving members of a consolidated group*—(A) *Facts.* P is the common parent of a consolidated group (as defined in § 1.1502-1(h)). P owns all of the only class of stock of subsidiaries DC1 and DC2, which are members (as defined in § 1.1502-1(b)) of the P consolidated group. DC1 owns ten airplanes that are property that is of a character subject to the allowance for depreciation under section 167. In Year 1, DC1 sells all ten airplanes to DC2, recognizing \$100x of gain, which is deferred. DC2 holds these airplanes in inventory. In Year 2, DC2 sells all ten airplanes to an unrelated foreign person, recognizing \$85x of gains.

(B) *Analysis.* The treatment of DC1's and DC2's gains on their respective sales is subject to redetermination under § 1.1502-13(c) to the extent necessary to achieve single entity treatment for the group. If DC1 and DC2 were divisions of a single corporation, the ten airplanes would be, or would have been, property that is of a character subject to the allowance for depreciation under section 167. Therefore, to achieve single entity treatment, both DC1's \$100x of gain and DC2's \$85x of gains are treated in Year 2 as income or gain from the sales of other excluded property and are excluded property sales income.

(vi) *Example 6: Related-party anti-abuse rule*—(A) *Facts.* DC1 is a domestic corporation that owns an 80 percent interest in the profits and capital of a domestic partnership, PRS. Unrelated persons own the remaining interests in PRS. PRS owns all of the only class of stock of DC2, a domestic corporation. DC1 owns 20 cars that are other excluded property in the hands of DC1. With a principal purpose of avoiding the application of section 250(b)(3)(A)(i)(VII)(bb), DC1 transfers all 20 cars to PRS in an exchange described in section 721(a), and PRS transfers all 20 cars to DC2 in an exchange described in section 351(a). Under section 723, PRS's basis in the cars transferred to it by DC1 is the same as DC1's basis in the cars at the time of the transfer. Under section 362, DC2's basis in the cars transferred to it by PRS is the same as the basis of the cars in the hands of PRS. DC2 holds the cars in inventory and recognizes gain on the subsequent sales of all 20 cars to an unrelated foreign person.

(B) *Analysis.* DC1, PRS, and DC2 are members of a modified affiliated group for purposes of paragraph (h)(3) of this section. Because DC2 acquired property that was other excluded property in the hands of DC1, a member of DC2's modified affiliated group for purposes of paragraph (h)(3) of this section, in a

series of transactions in which the basis of the property was determined by reference to the basis in the hands of the transferor and with a principal purpose of avoiding the application of section 250(b)(3)(A)(i)(VII)(bb), the 20 cars are treated as other excluded property in the hands of DC2. Therefore, DC2's gain from the sales of the 20 cars are excluded property sales income.

■ **Par. 5.** Section 1.250(b)–3 is amended by adding two new sentences at the end of paragraph (b)(16) to read as follows:

§ 1.250(b)–3 Foreign-derived deduction eligible income (FDDEI) transactions.

* * * * *

(b) * * *

(16) * * * The definition of *sale* in this paragraph (b)(16) does not apply for purposes of § 1.250(b)–1(c)(15)(vii) and (h). See § 1.250(b)–1(h)(2)(iii) for the definition of *sale or other disposition* for purposes of determining excluded property sales income.

* * * * *

■ **Par. 6.** Section 1.250(b)–4 is amended by removing and reserving paragraphs (d)(2)(iv)(B)(3) through (5), and (8), to read as follows:

§ 1.250(b)–4 Foreign-derived deduction eligible income (FDDEI) sales.

* * * * *

(d) * * *

(2) * * *

(iv) * * *

(B) * * *

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

* * * * *

(8) [Reserved]

* * * * *

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026–17019 Filed 8–19–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107855–25]

RIN 1545–BR50

Determination of Target Normal Cost and Funding Target for Single-Employer Defined Benefit Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would modify

rules in the existing regulations relating to the minimum funding requirement applicable to single-employer defined benefit pension plans. The modifications include changes to the rules relating to the determination of a plan's target normal cost and funding target and would implement certain statutory amendments that have not yet been reflected in the regulations. These proposed regulations would affect participants in, beneficiaries of, employers maintaining, and administrators of single-employer defined benefit plans.

DATES: Written or electronic comments and requests for a public hearing must be received by October 19, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-107855-25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment received to its public docket. Send paper submissions to: CC:PA:01:PR (REG-107855-25), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Tom Morgan at (202) 317-6700; concerning submissions of comments and requests for a public hearing, contact the Publications and Regulations Section at (202) 317-6901 (not a toll-free number) or by email to publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

The proposed regulations are issued under the delegation of authority in section 430(g)(3)(B) of the Internal Revenue Code (Code), which provides that a plan may determine the value of plan assets on the basis of the averaging of fair market values, but only if that method is permitted under regulations prescribed by the Secretary of the Treasury or the Secretary's delegate (Secretary); and section 430(h)(3), which provides that, generally, the Secretary shall prescribe by regulation mortality tables to be used in determining any

present value or making any computation under section 430.

In addition, the proposed regulations are issued under the delegation of authority in section 7805. Section 7805(a) directs the Secretary of the Treasury or his delegate to prescribe all needful rules and regulations for the enforcement of that section and other provisions of the Code, including such rules and regulations as may be necessary by reason of any alteration of law relating to internal revenue.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 430 of the Code, which was added by the Pension Protection Act of 2006, Public Law 109-280, 120 Stat. 780 (2006). The proposed amendments to the regulations primarily reflect changes to section 430 of the Code made by: (1) the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA '08), Public Law 110-458, 122 Stat. 5092 (2008); (2) the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), Division O of the Further Consolidated Appropriations Act, 2020, Public Law 116-94, 133 Stat. 2534 (2019); and (3) the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), Division T of the Consolidated Appropriations Act, 2023, Public Law 117-328, 136 Stat. 4459 (2022).

A. Plan Qualification Timing Rules Under Section 401(b)

Section 401(b)(1), as amended by section 201 of the SECURE Act, provides that a plan is considered as satisfying the qualification requirements of section 401(a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the date on which there was adopted or put into effect any amendment that caused the plan to fail to satisfy those requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which the plan or amendment was adopted (including extensions) or any later time as the Secretary may designate, if all provisions of the plan that are necessary to satisfy those requirements are in effect by the end of that period and have been made effective for all purposes for the whole of that period.

Section 401(b)(2), as added by section 201 of the SECURE Act and amended by Section 317 of the SECURE 2.0 Act, provides that if an employer adopts a plan after the close of a taxable year but before the time prescribed by law for

filing the return of the employer for the taxable year (including extensions), then the employer may elect to treat the plan as having been adopted as of the last day of the taxable year.

Section 401(b)(3), as added by Section 316 of the SECURE 2.0 Act, provides that if (A) an employer amends a plan to increase benefits accrued under the plan effective as of any date during the immediately preceding plan year (other than increasing the amount of matching contributions), (B) that amendment would not otherwise cause the plan to fail to meet any of the requirements of sections 401 through 436 of the Code, and (C) that amendment is adopted before the time prescribed by law for filing the return of the employer for the taxable year (including extensions) which includes the effective date of the amendment, then the employer may elect to treat that amendment as having been adopted as of the last day of the plan year in which the amendment is effective.

Section 1.401(b)-1 provides rules regarding remedial amendments under section 401(b). Under § 1.401(b)-1(a), a plan that does not satisfy the requirements of section 401(a) on any date solely as a result of a disqualifying provision (as determined under § 1.401(b)-1(b)) is considered to have satisfied those requirements on that date if, on or before the end of the remedial amendment period (as defined in § 1.401(b)-1(d) through (f) with respect to the disqualifying provision), all provisions of the plan that are necessary to satisfy all requirements under section 401(a) are in effect and have been made effective for all purposes for the entire remedial amendment period. The second sentence of § 1.401(b)-1(a) notes that under some facts and circumstances, it may not be possible to amend a plan retroactively so that all provisions of the plan which are necessary to satisfy the requirements of section 401(a) are in fact made effective for the whole remedial amendment period.¹

Pursuant to § 1.401(b)-1(d)(2), the remedial amendment period generally ends with the time prescribed by law, including extensions, for filing the income tax return (or partnership return of income) of the employer for the employer's taxable year in which falls the latest of: (1) the date on which the remedial amendment period begins, (2) the date on which the disqualifying provision is adopted, or (3) the date on

¹ In these circumstances, the plan would have to be operated in accordance with the expected future amendment prior to when the amendment is adopted.

which the disqualifying provision is made effective. However, under § 1.401(b)–1(d)(2), the Commissioner may extend the remedial amendment period.

Revenue Procedure 2022–40, 2022–47 I.R.B. 487, extended the expiration of the remedial amendment period for a disqualifying provision with respect to a provision of a new plan or the absence of a provision from a new plan to the last day of the second calendar year following the calendar year in which the plan is put into effect. In addition, many deadlines for plan amendments made pursuant to specific legislative changes have been further extended in the corresponding legislation. See, for example, section 501 of the SECURE 2.0 Act.

B. Minimum Funding Requirements and Related Provisions for Single-Employer Defined Benefit Plans

Statutory Provisions

Section 412 provides minimum funding requirements that generally apply for pension plans (including both defined benefit pension plans and money purchase pension plans). Pursuant to section 412(a)(2)(A), section 430 specifies the minimum funding requirements that apply to single-employer defined benefit pension plans (including multiple-employer plans) other than CSEC plans described in section 414(y).

Section 412(d)(1) provides that if the funding method or a plan year for a plan is changed, the change will take effect only if approved by the Secretary.² Section 412(d)(2) provides that, for purposes of section 412, any amendment applying to a plan year which is adopted no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year), does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances, will, at the election of the plan administrator, be deemed to

have been made on the first day of the plan year.

Under section 430, the minimum required contribution for a plan year is a function of the target normal cost under section 430(b)(1), shortfall amortization charge under section 430(c)(1), funding target under section 430(d)(1), waiver amortization charge under section 430(e)(1), and value of plan assets under section 430(g)(3). If the value of plan assets (less the sum of the plan's prefunding balance and funding standard carryover balance determined under section 430(f)) is less than the funding target, section 430(a)(1) defines the minimum required contribution as the sum of the plan's target normal cost and the shortfall and waiver amortization charges for the plan year. If the value of plan assets (less the sum of the plan's prefunding balance and funding standard carryover balance) equals or exceeds the funding target, section 430(a)(2) defines the minimum required contribution as the plan's target normal cost for the plan year reduced (but not below zero) by the amount of any such excess.

Section 430(b)(1) as amended by WRERA '08, provides that, except as otherwise provided in section 430(i)(2) (regarding a plan that is in at-risk status), a plan's target normal cost for a plan year is the sum of the present value of all benefits expected to accrue or be earned under the plan during the plan year (with any increase in any benefit attributable to services performed in a preceding plan year by reason of a compensation increase during the current plan year treated as having accrued during the current plan year) and the amount of plan-related expenses expected to be paid from plan assets during the plan year, reduced by the amount of mandatory employee contributions expected to be made during the plan year.

Section 430(d)(1) provides that, except as otherwise provided in section 430(i)(1) (regarding a plan that is in at-risk status), a plan's funding target for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

Under section 430(h)(5), if, with respect to a single-employer defined benefit plan, the aggregate unfunded vested benefits as of the close of the preceding plan year (combined with the unfunded vested benefits for all other plans maintained by the contributing sponsors and members of such sponsors' controlled groups) exceeded \$50 million, then certain changes in actuarial assumptions must be approved by the Secretary. The changes in

actuarial assumptions that require approval are changes that result in a decrease in the funding shortfall of the plan for the current plan year (determined after taking into account any changes in interest rate and mortality table) that exceeds \$50 million (or that exceeds \$5 million and that is 5 percent or more of the funding target of the plan before that change).

Section 404(o)(6) provides that any computations under section 404(o), which relates to the deduction for contributions to a single-employer defined benefit plan, must use the same actuarial assumptions that are used for the plan year under section 430, except that the interest rate corridor under section 430(h)(2)(C)(iv) does not apply, and section 404(o)(7) provides that any term used in section 404(o) which is also used in section 430 has the same meaning given to that term by section 430. Thus, except for the difference in interest rates, the funding target and target normal cost under section 430 (determined taking into account plan provisions that are recognized under the rules of section 430) are also used to determine the maximum deductible contributions under section 404(o).

Section 436(c)(1) provides that, generally, no amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage (AFTAP) for such plan year is less than 80 percent, or would be less than 80 percent taking into account the amendment.³ However, section 436(c)(2) provides that such an amendment can take effect if the plan sponsor makes a contribution (in addition to the minimum required contribution) equal to the amount of the increase in the funding target of the plan for the plan year attributable to the amendment (if the AFTAP is less than 80 percent) or (in other cases) the amount necessary to result in an AFTAP of 80 percent.

Regulatory Provisions

On October 15, 2009, final regulations regarding the determination of the target normal cost under section 430(b) and the funding target under section 430(d) were published in the **Federal Register**

² The Secretary has prescribed procedures allowing plans subject to section 412 to receive automatic approval to change their funding method in limited circumstances. See Rev. Proc. 2017–56, 2017–44 IRB 465 (applicable to single-employer plans), and Rev. Proc. 2000–40, 2000–42 IRB 357 (applicable to multiemployer plans). The Secretary has also prescribed procedures allowing plans to receive automatic approval to change their plan year if certain conditions are met. See Rev. Proc. 87–27, 1987–1 CB 769, as amended by Ann. 88–97, 1988–26 IRB 47.

³ Section 436(c)(3) provides for a limited exception for certain benefit increases under a formula which is not based on a participant's compensation.

(TD 9467, 74 FR 53004). Those regulations apply to plan years beginning on or after January 1, 2010.

Section 1.430(d)–1(b)(1)(i) provides that, subject to the adjustments in § 1.430(d)–1(b)(1)(iii), the target normal cost of a defined benefit plan that is not in at-risk status under section 430(i) for a plan year is the present value (determined as of the valuation date) of all benefits under the plan that accrue during, are earned during, or are otherwise allocated to service for the plan year.

Section 1.430(d)–1(b)(1)(iii)(A) provides that the target normal cost of the plan for the plan year is adjusted (not below zero) by adding the amount of plan-related expenses expected to be paid from plan assets during the plan year and subtracting the amount of mandatory employee contributions that are expected to be made during the plan year. Section 1.430(d)–1(b)(1)(iii)(B) is reserved for a definition of plan-related expenses.

Under § 1.430(d)–1(d)(1)(i), a plan's funding target and target normal cost for a plan year generally are determined based on plan provisions that are adopted no later than the valuation date for the plan year and that take effect on or before the last day of the plan year.

Section 1.430(d)–1(d)(1)(ii) provides rules regarding the impact of an election under section 412(d)(2), which is available with respect to a plan amendment adopted no later than 2½ months after the close of the plan year (including an amendment adopted during the plan year). Under § 1.430(d)–1(d)(1)(ii), if a plan administrator makes the election described in section 412(d)(2) with respect to a plan amendment, then the plan amendment is treated as having been adopted on the first day of the plan year for purposes of § 1.430(d)–1(d). However, because a section 412(d)(2) election merely deems the amendment to have been made on the first day of the plan year, it does not determine when the plan amendment takes effect. Accordingly, regardless of whether a section 412(d)(2) election is made, an amendment is taken into account for the plan year only if it takes effect by the last day of the plan year.

Section 1.430(d)–1(d)(1)(iii) provides that, for purposes of § 1.430(d)–1(d)(1), the determination of whether an amendment that increases benefits takes effect and when it takes effect is determined in accordance with the rules of section 436(c) and § 1.436–1(c)(5). Section 1.436–1(c)(5) provides that, for purposes of section 436(c) and § 1.436–1(c), in the case of an amendment that increases benefits, the amendment takes effect under a plan on the first date on

which any individual who is or could be a participant or beneficiary under the plan would obtain a legal right to the increased benefit if the individual were on that date to satisfy the applicable requirements for entitlement to the benefit (such as the attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death, disability, or severance from employment). Section 1.430(d)–1(d)(1)(iii) similarly provides that in the case of an amendment that decreases benefits, the amendment takes effect under a plan on the first date on which the benefits of any individual who is or could be a participant or beneficiary under the plan would be less valuable than those benefits would be under the pre-amendment plan provisions if the individual were on that date to satisfy the applicable conditions for the benefits.

Section 1.430(d)–1(d)(2) provides that, in the case of a plan amendment that is not required to be taken into account under the rules of § 1.430(d)–1(d)(1) because it is adopted after the valuation date for the plan year, the plan amendment must be taken into account in determining a plan's funding target and target normal cost for the plan year if the amendment (i) takes effect by the last day of the plan year; (ii) increases the liabilities of the plan by reason of increases in current benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable; and (iii) would not be permitted to take effect under a modified version of the rules of section 436(c). The modified version of the section 436(c) rules is set forth in § 1.430(d)–1(d)(2)(iii), which provides that those rules are applied by treating the increase in the target normal cost for the plan year attributable to the amendment (and all other amendments that must be taken into account solely because of the application of the rules in § 1.430(d)–1(d)(2)) as if the increase were an increase in the funding target for the plan year, and by taking into account all unpredictable contingent event benefits permitted to be paid for unpredictable contingent events that occurred during the current plan year and all plan amendments that took effect in the current plan year (including all amendments to which § 1.430(d)–1(d)(2) applies for the plan year).

C. Actuarial Assumptions

Section 1.430(d)–1(f)(1)(i) provides that the determination of any present value or other computation under section 430 and this section must be made on the basis of actuarial

assumptions and a funding method. Section 1.430(d)–1(f)(1)(ii) provides that actuarial assumptions established for a plan year cannot subsequently be changed for that plan year unless the Commissioner determines that the assumptions that were initially used are unreasonable. Similarly, a funding method established for a plan year cannot subsequently be changed for that plan year unless the Commissioner determines that the initial use of that funding method for that plan year is impermissible. Section 1.430(d)–1(f)(1)(iii) provides that generally, the actuarial assumptions and funding method for a plan year are established by the filing of an actuarial report under section 6059 (Schedule SB of Form 5500, *Annual Return/Report of Employee Benefit Plan*).

Section 1.430(d)–1(f)(3) provides that, in the case of actuarial assumptions other than those specified in sections 430(h)(2), 430(h)(3), and 430(i), each of those actuarial assumptions must be reasonable (taking into account the experience of the plan and reasonable expectations). In addition, the actuarial assumptions (other than those specified in sections 430(h)(2), 430(h)(3), and 430(i)) must, in combination, offer the plan's enrolled actuary's best estimate of anticipated experience under the plan based on information determined as of the valuation date.

Section 1.430(d)–1(f)(4)(ii) provides that any determination of present value or any other computation under that section must take into account the probability that future benefit payments under the plan will be made in the form of any optional form of benefit provided under the plan (including single-sum distributions), determined on the basis of the plan's experience and other related assumptions, in accordance with § 1.430(d)–1(f)(3); and must take into account any difference in the present value of future benefit payments that results from the use of actuarial assumptions in determining the amount of benefit payments in any such optional form of benefit that are different from those prescribed by section 430(h).

Section 1.430(d)–1(f)(4)(iii)(A) provides that, in the case of a distribution that is subject to section 417(e)(3) and that is determined using the applicable interest rates and applicable mortality table under section 417(e)(3), for purposes of applying § 1.430(d)–1(f)(4)(ii), the computation of the present value of that distribution is treated as having taken into account any difference in present value that results from the use of actuarial assumptions that are different from those prescribed

by section 430(h) (as required under § 1.430(d)–1(f)(4)(ii)(B)) if and only if the present value of the distribution is determined in accordance with § 1.430(d)–1(f)(4)(iii).

Section 1.430(d)–1(f)(4)(iii)(B) provides that, generally, the present value of a distribution is determined in accordance with § 1.430(d)–1(f)(4)(iii) if that present value is determined as the present value, using special actuarial assumptions, of the annuity (either the deferred or immediate annuity) which is used under the plan to determine the amount of the distribution. Under these special assumptions, for the period beginning with the expected annuity starting date for the distribution, the current applicable mortality table under section 417(e)(3) that would apply to a distribution with an annuity starting date occurring on the valuation date is substituted for the mortality table under section 430(h)(3) that would otherwise be used. In addition, under these special assumptions, the valuation interest rates under section 430(h)(2) are used for purposes of discounting the projected annuity payments from their expected payment dates to the valuation date (as opposed to the interest rates under section 417(e)(3), which the plan uses to determine the amount of the benefit).

Section 1.430(d)–1(f)(4)(iii)(C) provides some alternative assumptions that may be used in determining the present value of a distribution under § 1.430(d)–1(f)(4)(iii). In the case of a plan for which the generational mortality tables are generally used to determine present values under section 430(d), § 1.430(d)–1(f)(4)(iii)(C) allows for the use of a 50–50 male-female blend of the annuitant mortality rates under the § 1.430(h)(3)–1(a)(4) generational mortality tables in lieu of the applicable mortality table under section 417(e)(3).⁴ Section 1.430(d)–1(f)(4)(iii)(C) also provides that adjustments to interest rates are permitted to take into account the differences between the phase-in of the section 430(h)(2) segment rates under section 430(h)(2)(G) and the adjustments to the segment rates under section 417(e)(3)(D)(iii).

Section 1.430(d)–1(f)(5)(i) provides that, in the case of an applicable defined benefit plan described in section 411(a)(13)(C), if the amount of a future distribution is based on an interest adjustment applied to the current accumulated benefit, then the amount of that distribution is determined by

projecting the future interest credits or equivalent amount under the plan's interest crediting rules using actuarial assumptions that satisfy the requirements of § 1.430(d)–1(f)(3).

Section 1.430(d)–1(f)(5)(ii)(A) provides that, in the case of an applicable defined benefit plan described in section 411(a)(13)(C), if the amount of an annuity distribution is based on either the balance of a hypothetical account maintained for a participant or the accumulated percentage of a participant's final average compensation, then the amount of that annuity distribution is calculated by converting the projected account balance (or accumulated percentage of final average compensation), in accordance with § 1.430(d)–1(f)(5)(i), to an annuity by applying the plan's annuity conversion provisions using the rules of § 1.430(d)–1(f)(5)(ii).

Section 1.430(d)–1(f)(5)(ii)(B) provides that generally, if the plan bases the conversion of the projected account balance (or accumulated percentage of final average compensation) to an annuity using the applicable interest rates and applicable mortality table under section 417(e)(3), then the amount of the annuity distribution is determined by dividing the projected account balance (or accumulated percentage of final average compensation) by an annuity factor corresponding to the assumed form of payment using, for the period beginning with the annuity starting date, the current applicable mortality table under section 417(e)(3) that would apply to a distribution with an annuity starting date occurring on the valuation date (in lieu of the mortality table under section 430(h)(3) that would otherwise be used) and the valuation interest rates under section 430(h)(2) (as opposed to the interest rates under section 417(e)(3) which the plan uses to determine the amount of the annuity).

Section 1.430(d)–1(f)(5)(ii)(C) provides that, in determining the amount of an annuity distribution under § 1.430(d)–1(f)(5)(ii)(B), a plan is permitted to apply the optional applications of generational mortality and phase-in of interest rates described in § 1.430(d)–1(f)(4)(iii)(C).

Explanation of Provisions

These proposed regulations would facilitate the adoption of amendments that increase benefits. Under these proposed regulations, such amendments adopted after the end of the plan year can be taken into account in determining the actuarial results for a plan year which, in turn, will result in an increased deductible limit for the

taxable year for the plan sponsor. These proposed regulations would also: (1) clarify the plan-related expenses that are includable in target normal cost; (2) provide rules for plans that are adopted after the end of a plan year; (3) provide rules for when certain plan amendments must be taken into account in the actuarial results for a plan year; (4) extend the deadline for making certain changes in actuarial assumptions or funding methods; and (5) make minor changes to the rules for actuarial assumptions to eliminate references to statutory provisions that are no longer applicable and to conform them to other regulatory provisions.

A. Investment-Related Expenses Not Included in Target Normal Cost

Proposed § 1.430(d)–1(b)(1)(iii)(B) would provide that plan-related expenses consist of all amounts that are expected to be paid from plan assets that are neither benefits paid to participants and beneficiaries (treating the purchase of an annuity as the payment of benefits), nor investment-related expenses described in proposed § 1.430(d)–1(b)(1)(iii)(C).

Proposed § 1.430(d)–1(b)(1)(iii)(C) would provide that investment-related expenses consist of investment manager fees and other expenses directly related to the investment of the plan's assets. However, if the total payments from plan assets to a service provider are expected to be \$5,000 or more for a plan year and consist of both investment-related expenses and expenses for other services (such as recordkeeping services), only those amounts that the service provider itemizes as investment management fees or other expenses directly related to the investment of the plan's assets are treated as investment-related expenses. Amounts itemized as expenses for other services are not treated as investment-related expenses.⁵ An example of other services would be if the assets of the pension fund are held by a bank or trust company affiliated with the fund's investment manager and the plan assets are used to pay custodial or trustee fees for the safekeeping of the investment assets, such as holding securities, settling trades, or collecting income. This exclusion means that if the total payments from plan assets to a service provider are expected to be less than \$5,000, all payments are treated as

⁴ The applicable mortality table under section 417(e)(3) is a projected static mortality table, based on the mortality table specified for the plan year under section 430(h)(3)(A) (without regard to section 430(h)(3)(C) or (D)), modified as appropriate by the Secretary.

⁵ This \$5,000 threshold is consistent with the reporting requirement on Form 5500, Schedule C for service providers who have rendered services to, or who had transactions with, the plan during the reporting year if the service provider received, directly or indirectly, \$5,000 or more in reportable compensation in connection with services rendered or their position with the plan.

investment-related expenses and the service provider does not need to itemize the expenses in order for the plan to exclude these payments from target normal cost.

B. Plans or Plan Amendments That Are Adopted After the End of the Plan Year

Proposed § 1.430(d)–1(d)(1) would provide rules for which plan provisions are used to determine a plan's funding target and target normal cost for a plan year based on when the plan provisions were adopted and, if applicable, what election the plan administrator made. For plan provisions adopted by the plan's valuation date, proposed § 1.430(d)–1(d)(1)(i) would provide that, except as otherwise provided in proposed § 1.430(d)–1(d)(1)(ii) and (iii), a plan's funding target and target normal cost for a plan year are determined based on plan provisions that are adopted no later than the valuation date for the plan year and that take effect on or before the last day of the plan year. For example, in the case of a plan amendment adopted on or before the valuation date for the current plan year that has an effective date occurring in the current plan year, the plan amendment is taken into account in determining the funding target and the target normal cost for the current plan year if it is permitted to take effect under the rules of section 436(c) for the current plan year, but the amendment is not taken into account for the current plan year if it does not take effect until a future plan year.

For plan provisions adopted after the plan's valuation date, the rules that apply are determined by the election made by the plan administrator. Proposed § 1.430(d)–1(d)(1)(ii)(A) would provide that if the plan administrator makes an election under section 412(d)(2) with respect to a plan amendment that is adopted no later than 2½ months after the end of the plan year, then the plan amendment will be taken into account in determining the plan's funding target and target normal cost for that plan year, provided that the plan amendment takes effect no later than the date it is adopted. This rule would apply even if the plan amendment were adopted during the plan year, consistent with prior revenue rulings.⁶

Proposed § 1.430(d)–1(d)(1)(ii)(B) would provide that if an employer adopts a plan after the last day of the employer's taxable year and before the due date for the employer's income tax return for that taxable year (including

extensions) and makes an election under the first sentence of section 401(b)(2), then the plan is treated as adopted on the last day of that taxable year. In such a case, the target normal cost and funding target for the plan's first plan year are determined based on the adopted plan provisions, provided that (1) the plan takes effect no later than the date the plan is adopted; and (2) if the plan's valuation date is before the date the plan is treated as being adopted, a section 412(d)(2) election is made.

Proposed § 1.430(d)–1(d)(1)(ii)(C) would provide that if, before the due date (including extensions) for an employer's income tax return for a taxable year, the employer adopts an amendment increasing benefits accrued under a plan effective as of any date during the plan year that immediately precedes the date of adoption, and makes an election under section 401(b)(3) with respect to the plan amendment, then the plan amendment is treated as having been adopted as of the last day of that preceding plan year. In such a case, the target normal cost and funding target for that preceding plan year are determined taking the plan amendment into account, provided that (1) the amendment takes effect no later than the date it is adopted, and (2) if the plan's valuation date is before the date the amendment is treated as being adopted, a section 412(d)(2) election is made.

Employers that make an election under either section 401(b)(2) or section 401(b)(3) should note that the deadline for minimum required contributions under section 430(j)(1) is 8½ months after the end of the plan year, while the deadline for adopting a section 401(b)(2) or section 401(b)(3) amendment under either proposed § 1.430(d)–1(d)(1)(ii)(B) or (C) can be after that deadline, depending on the timing of the plan year and the employer's taxable year.

C. Remedial Amendments

Proposed § 1.430(d)–1(d)(1)(iii) would provide rules under which certain planned amendments are taken into account once plan operations are changed pursuant to those planned amendments. The existing rule in § 1.430(d)–1(d)(1)(iii) would be revised as § 1.430(d)–1(d)(1)(iv) and is discussed later in part C of this Explanation of Provisions. Under proposed § 1.430(d)–1(d)(1)(iii)(A), if plan operations are changed during a remedial amendment period (within the meaning of § 1.401(b)–1(d)) to make effective a future remedial amendment, then the provisions of the future remedial amendment would be treated

as adopted on the date that the plan operations are changed. To the extent the actual remedial amendment that is adopted is different from the way the plan has been operated, the actual remedial amendment is treated as adopted when plan operations are changed to reflect the actual remedial amendment (if that change in plan operations occurs before the adoption date of the amendment). For example, this could happen in the case of a plan that is operated in accordance with a statutory change and then plan operations are updated to reflect published guidance interpreting that statutory change.

Proposed § 1.430(d)–1(d)(1)(iii)(B) would provide that a plan makes effective a future remedial amendment when (1) it is required to be amended to address a disqualifying provision that has been designated as such by the Commissioner pursuant to § 1.401(b)–1(b)(3), (2) the remedial amendment period with respect to that required amendment has not ended, and (3) plan operations are changed in anticipation of a proposed amendment to the plan relating to the disqualifying provision.

Proposed § 1.430(d)–1(d)(1)(iv) would provide substantially the same rule as existing § 1.430(d)–1(d)(1)(iii). However, proposed § 1.430(d)–1(d)(1)(iv) would not include the existing language regarding the effect of an election made under section 412(d)(2), as that issue would be separately addressed in proposed § 1.430(d)–1(d)(1)(ii)(A).

D. Anti-Abuse Rule for Mid-Year Amendments That Increase Target Normal Cost Disproportionately

Proposed § 1.430(d)–1(d)(2)(i) would modify the special rule in existing § 1.430(d)–1(d)(2) under which certain plan amendments that are not required to be taken into account under the rules of § 1.430(d)–1(d)(1), because the amendment is adopted after the valuation date for the plan year, must nonetheless be taken into account in determining a plan's funding target and target normal cost for the plan year. A plan amendment would be subject to this rule if it (1) increases the liabilities of the plan by reason of increases in current benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable; (2) would not be permitted to take effect under the rules of section 436 as described in proposed § 1.430(d)–1(d)(2)(ii); and (3) would increase the target normal cost disproportionately, as described in § 1.430(d)–1(d)(2)(iii).

Under proposed § 1.430(d)–1(d)(2)(i)(C), the anti-abuse rule in

⁶ See, for example, Rev. Rul. 79–325, 1979–2 C.B. 190.

§ 1.430(d)–1(d)(2) would apply only if the plan amendment increases the target normal cost disproportionately. For this purpose, proposed § 1.430(d)–1(d)(2)(iii) would provide that a plan amendment increases the target normal cost disproportionately if the percentage increase in target normal cost as the result of the amendment is more than twice the percentage increase in the funding target as a result of the amendment (taking into account only the benefits of participants currently employed in the service of the employer). Comments are requested regarding other appropriate methods of measuring whether a plan amendment is considered to increase the target normal cost disproportionately, such as by comparing the present value of current year accruals with the present value of accruals in succeeding plan years.

E. Change in Actuarial Assumptions or Funding Method

Proposed § 1.430(d)–1(f)(1)(ii) would revise the existing rule in § 1.430(d)–1(f)(1)(ii) to address the situation in which an application to change actuarial assumptions or funding method has been submitted to the Secretary,⁷ but the Secretary has not yet approved the application when the assumptions or method are established for the plan year. In these situations, the proposed regulations would be amended to provide that the assumptions or funding method can be changed for that plan year in accordance with the Secretary's approval of that application.

F. Other Rules Regarding Actuarial Assumptions

Proposed § 1.430(d)–1(f)(4)(iii)(C) would provide rules for determining the present value of a distribution under § 1.430(d)–1(f)(4)(iii) that are substantially the same as a rule in existing § 1.430(d)–1(f)(4)(iii)(C). However, the proposed rule would not include the existing reference to the phase-in of the section 430(h)(2) segment rates that applied under section 430(h)(2)(G) for plan years beginning in 2008 or 2009.

Proposed § 1.430(d)–1(f)(5)(i) and (f)(5)(ii)(A) are substantially the same as the corresponding provisions in the existing regulations but would make conforming edits to update the terminology used in those provisions to

conform to the terminology used in § 1.411(a)(13)–1.

Proposed § 1.430(d)–1(f)(5)(ii)(C) would provide that the option under § 1.430(d)–1(f)(4)(iii)(C) to substitute the generational mortality table may be used for purposes of determining the amount of an annuity distribution under § 1.430(d)–1(f)(5)(ii)(B). This provision is substantially the same as existing § 1.430(d)–1(f)(5)(ii)(C), except that the heading would be revised to reflect that the option to adjust the present values to take into account the phase-in of segment rates under section 430(h)(2)(G) is no longer applicable.

Proposed Applicability Date

The regulations are proposed to apply to plan years beginning on or after 6 months after the date of publication of the Treasury decision adopting these amendments to the regulations as final regulations in the **Federal Register**.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

OMB's Office of Information and Regulatory Affairs has determined that this proposed rule is not significant and is not subject to review under section 6(b) of Executive Order 12866, as amended. This proposed rule is expected to be an Executive Order 14192 deregulatory action.

II. Paperwork Reduction Act

This proposed rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act requires consideration of the regulatory impact on small businesses. It is hereby certified that these proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The economic impact of these regulations is not expected to be significant. These regulations are not expected to result in economically meaningful changes in behavior. They would update existing regulations in order to implement statutory changes enacted after the publication of the 2009 regulations. They provide guidance for administrators and sponsors of single-employer defined benefit plans regarding the determination of target normal cost and the funding target.

For the reasons stated, a regulatory flexibility analysis under the Regulatory

Flexibility Act is not required.

Notwithstanding the above, the Treasury Department and the IRS invite comments on the impact the proposed rules would have on small entities.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Before these proposed amendments to the final regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available at <https://www.regulations.gov> or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time

⁷ Rev. Proc. 2017–57, 2017–44 I.R.B. 474, sets forth the procedure for obtaining approval by the IRS for a change in the funding method or actuarial assumptions used for a single-employer defined benefit plan.

for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Tom Morgan of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.430(d)–1 is also issued under 26 U.S.C. 430(g)(3)(B) and 26 U.S.C. 430(h)(2).

■ **Par. 2.** Section 1.430(d)–1 is amended by:

- 1. Revising paragraph (b)(1)(iii)(B).
- 2. Adding paragraph (b)(1)(iii)(C).
- 3. Revising and republishing paragraphs (d)(1) and (2).
- 4. Revising paragraphs (f)(1)(ii) and (f)(4)(iii)(C), (f)(5)(i), (f)(5)(ii)(A) and (C) and (g).

The revisions and additions read as follows:

§ 1.430(d)–1 Determination of target normal cost and funding target.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) *Plan-related expenses.* For purposes of this paragraph (b)(1)(iii), plan-related expenses consist of all amounts that are expected to be paid from plan assets that are neither benefits paid to participants or beneficiaries (treating the purchase of an annuity contract as the payment of benefits) nor investment-related expenses described in paragraph (b)(1)(iii)(C) of this section. Plan-related expenses include fees paid for professional services (such as legal, actuarial, and audit services), plan administration, and premiums paid to the Pension Benefit Guaranty Corporation, among other items.

(C) *Investment-related expenses.* Investment-related expenses consist of

investment management fees and other expenses directly related to the investment of the plan's assets. However, if the total payments from plan assets to a service provider are expected to be \$5,000 or more for a plan year and consist of investment-related expenses and expenses for other services (such as recordkeeping services), only those amounts that the service provider itemizes as investment management fees or other expenses directly related to the investment of the plan's assets are treated as investment-related expenses. Amounts itemized as expenses for other services are not treated as investment-related expenses.

* * * * *

(d) *Plan provisions taken into account*—(1) *General rule*—(i) *Plan provisions adopted by valuation date.* Except as otherwise provided in paragraphs (d)(1)(ii) and (iii), and (d)(2) of this section, a plan's funding target and target normal cost for a plan year are determined based on plan provisions that are adopted no later than the valuation date for the plan year and that take effect on or before the last day of the plan year. For example, in the case of a plan amendment adopted on or before the valuation date for the current plan year that has an effective date occurring in the current plan year, the plan amendment is taken into account in determining the funding target and the target normal cost for the current plan year if it is permitted to take effect under the rules of section 436(c) for the current plan year, but the amendment is not taken into account for the current plan year if it does not take effect until a future plan year.

(ii) *Plan provisions adopted after valuation date*—(A) *Impact of section 412(d)(2) election.* If the plan administrator makes an election under section 412(d)(2) with respect to a plan amendment that is adopted no later than 2½ months after the end of a plan year, then the amendment will be taken into account in determining the plan's funding target and target normal cost for that plan year, provided that the amendment takes effect no later than the date the amendment is adopted. The preceding sentence applies even if the plan amendment is adopted during the plan year.

(B) *Impact of section 401(b)(2) election.* If an employer adopts a plan after the last day of the employer's taxable year and before the due date for the employer's income tax return for that taxable year (including extensions) and makes an election under the first sentence of section 401(b)(2), then the plan is treated as adopted on the last

day of that taxable year. In such a case, the target normal cost and funding target for the plan's first plan year are determined based on the adopted plan provisions, provided that—

(1) The plan takes effect no later than the date the plan is adopted; and

(2) If the plan's valuation date is before the date the plan is treated as being adopted, a section 412(d)(2) election is made.

(C) *Impact of section 401(b)(3) election.* If, before the due date (including extensions) for an employer's income tax return for a taxable year, the employer adopts an amendment increasing benefits accrued under a plan effective as of any date during the plan year that immediately precedes the date of adoption, and makes an election under section 401(b)(3) with respect to the plan amendment, then the plan amendment is treated as having been adopted as of the last day of that preceding plan year. In such a case, the target normal cost and funding target for that preceding plan year are determined taking the plan amendment into account, provided that—

(1) The amendment takes effect no later than the date it is adopted; and

(2) If the plan's valuation date is before the date the amendment is treated as being adopted, a section 412(d)(2) election is made.

(iii) *Special rule to reflect plan operations during a remedial amendment period*—(A) *Requirement to reflect future remedial amendment.* For purposes of this paragraph (d), if plan operations are changed during a remedial amendment period (within the meaning of § 1.401(b)–1(d)) to make effective a future remedial amendment, then the provisions of the future remedial amendment are treated as adopted on the date that the plan operations are changed. To the extent the language of the plan's remedial amendment differs from the way the plan was operated at any point during the remedial amendment period, the remedial amendment is treated as adopted only when plan operations were changed to reflect the language ultimately adopted in that amendment.

(B) *Future remedial amendment.* A plan makes effective a future remedial amendment when—

(1) The plan is required to be amended to address a disqualifying provision that has been designated as such by the Commissioner pursuant to § 1.401(b)–1(b)(3),

(2) The remedial amendment period with respect to that required amendment has not ended, and

(3) Plan operations are changed in anticipation of a proposed amendment

to the plan relating to the disqualifying provision.

(iv) *Determination of when an amendment takes effect.* For purposes of this paragraph (d)(1)—

(A) The determination of whether an amendment that increases benefits takes effect and when it takes effect is made in accordance with the rules of section 436(c) and § 1.436–1(c)(5); and

(B) In the case of an amendment that decreases benefits, the amendment takes effect under a plan on the first date on which the benefits of any individual who is or could be a participant or beneficiary under the plan would be less valuable than those benefits would be under the pre-amendment plan provisions if the individual were on that date to satisfy the applicable conditions for the benefits.

(2) *Special rule for certain amendments increasing liabilities—*(i)

In general. In the case of a plan amendment that takes effect by the last day of the plan year but is not required to be taken into account under the rules of paragraph (d)(1) of this section because it is adopted after the valuation date for the plan year, the plan amendment must nonetheless be taken into account in determining a plan's funding target and target normal cost for the plan year if the plan amendment—

(A) Increases the liabilities of the plan by reason of increases in current benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable;

(B) Would not be permitted under section 436, as described in paragraph (d)(2)(ii) of this section; and

(C) Disproportionately increases target normal cost, as described in paragraph (d)(2)(iii) of this section.

(ii) *Plan amendment that would not be permitted under section 436.* A plan amendment is described in this paragraph (d)(2)(ii) if the plan amendment would not be permitted to take effect under the rules of section 436(c) as applied under this paragraph (d)(2)(ii). The rules of section 436(c) are applied under this paragraph (d)(2)(ii) by—

(A) Treating the increase in the target normal cost for the plan year attributable to the amendment (and all other amendments that must be taken into account solely because of the application of the rules in this paragraph (d)(2)) as if the increase were an increase in the funding target for the plan year; and

(B) Taking into account all unpredictable contingent event benefits permitted to be paid for unpredictable contingent events that occurred during

the current plan year and all plan amendments that took effect in the current plan year (including all amendments to which this paragraph (d)(2) applies for the plan year).

(iii) *Plan amendment resulting in disproportionate increase in target normal cost.* A plan amendment is described in this paragraph (d)(2)(iii) if the percentage increase in target normal cost as the result of the amendment is more than twice the percentage increase in the funding target as a result of the amendment (taking into account only the benefits of participants currently employed in the service of the employer).

* * * * *

(f) * * *

(1) * * *

(ii) *Changes in actuarial assumptions and funding method.* Actuarial assumptions established for a plan year cannot subsequently be changed for that plan year unless the Secretary of the Treasury or the Secretary's delegate (Secretary) either approves a request for a change in actuarial assumptions that was submitted before the actuarial assumptions were established for the plan year or determines that the assumptions that were used are unreasonable. Similarly, a funding method established for a plan year cannot subsequently be changed for that plan year unless the Secretary either approves a request for a change in funding method that was submitted before the funding method was established for the plan year or determines that the use of that funding method for that plan year is impermissible.

* * * * *

(4) * * *

(iii) * * *

(C) *Optional application of generational mortality.* In determining the present value of a distribution under this paragraph (f)(4)(iii), if the generational mortality tables under § 1.430(h)(3)–1(b) or § 1.430(h)(3)–2 are used for a plan, then an equal-weighted blend of the annuitant mortality rates under the § 1.430(h)(3)–1(b) generational mortality tables for males and females may be used in lieu of the applicable mortality table under section 417(e)(3) that would apply to a distribution with an annuity starting date occurring on the valuation date.

* * * * *

(5) * * *

(i) *In general.* In the case of a statutory hybrid plan described in § 1.411(a)(13)–1(d)(5), if the amount of a future distribution is based on an interest adjustment applied to the current

accumulated benefit, then the amount of that distribution is determined by projecting the future interest credits or equivalent amount under the plan's interest crediting rules using actuarial assumptions that satisfy the requirements of paragraph (f)(3) of this section. Thus, if a plan provides for a single sum distribution equal to the balance of a participant's hypothetical account under a cash balance plan, then the amount of that future distribution is equal to the projected account balance at the expected date of payment determined using actuarial assumptions that satisfy the requirements of paragraph (f)(3) of this section.

(ii) * * *

(A) *General rule.* In the case of a statutory hybrid plan with a lump sum-based benefit formula as described in § 1.411(a)(13)–1(d)(3), if the amount of an annuity distribution is based on either the balance of the hypothetical account maintained for a participant or the accumulated percentage of a participant's final average compensation, then the amount of that annuity distribution is calculated by converting the projected account balance (or accumulated percentage of final average compensation), in accordance with paragraph (f)(5)(i) of this section, to an annuity by applying the plan's annuity conversion provisions using the rules of this paragraph (f)(5)(ii).

* * * * *

(C) *Optional application of generational mortality.* The option under paragraph (f)(4)(iii)(C) of this section to substitute the generational mortality table may be used for purposes of determining the amount of an annuity distribution under paragraph (f)(5)(ii)(B) of this section.

* * * * *

(g) *Applicability date.* This section applies to plan years beginning on or after [DATE SIX MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE]. For earlier plan years, taxpayers may apply either the rules of this section or the rules described in 26 CFR 1.430(d)–1 (as it appeared in the April 1, [2026], edition of 26 CFR part 1).

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026–17021 Filed 8–19–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1****[REG–119882–25]****RIN 1545–BS06****Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to the Refunded Portion of Certain Federal Refundable Tax Credits****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would provide that the refunded portion of certain refundable Federal income tax credits available to individuals is a “Federal public benefit” under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). As a result, aliens who are not “qualified aliens” under PRWORA would be ineligible to receive the refunded portion of these refundable credits. These regulations would generally affect taxpayers claiming the following Federal income tax credits: the adoption tax credit, the American opportunity tax credit, the child tax credit, and the earned income credit. As required by PRWORA, this document also provides notice to the public and notifies recipients of proposed changes regarding eligibility for the refunded portion of such Federal income tax credits under PRWORA.

DATES: Written or electronic comments must be received by October 5, 2026. A public hearing on this proposed regulation has been scheduled for October 14, 2026. Requests to speak and outlines of topics to be discussed at the public hearing must be received by October 5, 2026. If no outlines are received October 5, 2026, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on October 9, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG–119882–25) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury

Department) and the IRS will publish for public availability any comments submitted electronically, and comments submitted on paper to the IRS’s public docket. Send paper submissions to: CC:PA:01:PR (REG–119882–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Branch 4 of the Office of Associate Chief Counsel (Income Tax & Accounting), (202) 317–4718 (not a toll-free number); concerning submissions of comments or the public hearing, the Publications and Regulations Section at (202) 317–6901 (not toll-free numbers) or by email to publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:**Authority**

This notice of proposed rulemaking contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 23, 24, 25A, and 32 of the Internal Revenue Code (Code) under the authority of section 7805(a) of the Code, which authorizes the Secretary of the Treasury or the Secretary’s delegate (Secretary) to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

The proposed regulations are also issued under the authority of section 404 of PRWORA, Public Law 104–193, 110 Stat. 2105, 2267 (Aug. 22, 1996) (8 U.S.C. 1614), which requires a Federal agency administering a Federal public benefit to post information and provide general notification to the public and to benefit recipients of the changes regarding eligibility for any such benefit pursuant to subtitle A of Title IV of PRWORA.

Background*I. Personal Responsibility and Work Opportunity Reconciliation Act*

Section 401(a) of PRWORA (8 U.S.C. 1611(a)) provides that aliens who are not qualified aliens (as that term is defined in 8 U.S.C. 1641) are not eligible for any Federal public benefit (as defined in 8 U.S.C. 1611(c)), with certain narrow exceptions.¹

Section 401(c)(1)(B) of PRWORA (8 U.S.C. 1611(c)(1)(B)) defines the term “Federal public benefit,” in relevant

part, as “any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.”

Section 431(b) of PRWORA (8 U.S.C. 1641(b)) defines the term “qualified alien” as “an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit is: (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act, (2) an alien who is granted asylum under section 208 of such Act, (3) a refugee who is admitted to the United States under section 207 of such Act, (4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, (5) an alien whose deportation is being withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208), (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980, (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980), or (8) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 1612(b)(2)(G) of [title 8].”

The term “qualified alien” also includes certain aliens who have been battered or subject to extreme cruelty in the United States provided they meet certain requirements including a substantial connection between such battery or cruelty and the need for the benefits to be provided. *See* 8 U.S.C. 1641(c).

Section 404 of PRWORA (8 U.S.C. 1614) requires each Federal agency that administers a program to which section 1611 of title 8, United States Code, applies, to post information and provide general notification to the public and to program recipients of the changes regarding eligibility for such Federal public benefits.

II. Executive Actions

Prior to 2018, the Treasury Department and the IRS had not viewed tax benefits, including refundable credits, as constituting Federal public benefits under PRWORA. In 2018, the Treasury Department began to

¹ 8 U.S.C. 1611(b) (listing exceptions). *See also* A.G. Order No. 6335–2025, 90 FR 32023 (July 11, 2025) (no benefits are exempt from PRWORA other than the provision of police, fire, ambulance, transportation, sanitation, and other similar services).

reconsider the potential applicability of PRWORA's eligibility restrictions to the refunded portions of three individual refundable income tax credits: (1) the earned income credit under section 32 (EITC), (2) the child tax credit under section 24 (CTC), and (3) the American opportunity tax credit under section 25A (AOTC). In connection with that reconsideration, the General Counsel's office of the Treasury Department requested an opinion from the Office of Legal Counsel (OLC) at the Department of Justice as to whether the refundable portions of each of these three credits "may reasonably be construed as a 'Federal public benefit' within the meaning of PRWORA's provision on aliens' ineligibility for such benefits."²

On December 9, 2020, OLC sent a memorandum to the General Counsel of the Treasury Department opining that the refunded portion of the named tax credits may reasonably be construed as a "Federal public benefit" for which nonqualified aliens are generally ineligible under PRWORA.³ OLC reasoned that the EITC, CTC, and AOTC provide direct payments to individual taxpayers and households; are materially similar to other kinds of monetary payments that the Federal government makes to individuals outside of the tax system; and each satisfies PRWORA's definition of a Federal public benefit either as a welfare benefit, postsecondary education benefit, or other similar benefit. The 2020 OLC Opinion stated, however, that "you have not asked us to consider, and we do not reach, the question whether this is the only permissible reading of the statute."⁴

On February 19, 2025, President Trump issued Executive Order 14218, *Ending Taxpayer Subsidization of Open Borders* (90 FR 10581). The Executive Order directs Federal agencies, among other actions, to identify federally funded programs administered by the agency and to ensure that such

programs are operating in compliance with Title IV of PRWORA.⁵

Following the issuance of Executive Order 14218, the Treasury Department submitted a second request to OLC asking whether the interpretation that was the subject of the 2020 OLC Opinion represents the best reading of the law, in light of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). This second request also asked whether the refunded portions of the premium tax credit (PTC) under section 36B and the Saver's Match under section 6433 of the Code constitute Federal public benefits. On November 19, 2025, in response, OLC issued a Memorandum Opinion to the General Counsel of the Treasury Department concluding that the interpretation addressed in the 2020 OLC Opinion reflects the best view of the law and that the refunded portions of the credits addressed in the 2020 OLC Opinion, as well as the PTC and the Saver's Match, are Federal public benefits under PRWORA.⁶

III. Refunded Portion of Certain Individual Refundable Income Tax Credits as "Federal Public Benefits"

A. Individual Refundable Income Tax Credits

In general, a tax credit is an amount allowable as a reduction of tax liability for the purpose of computing the tax or refund due. A tax credit reduces a taxpayer's liability dollar for dollar. Tax credits are available to all taxpayers who meet the eligibility requirements of the particular credit. If an amount allowable as a refundable credit exceeds the tax imposed by subtitle A of the Code (subtitle A) (reduced by any applicable nonrefundable credits), the amount of that excess is considered to be an overpayment of tax, which the IRS may credit against any existing Federal tax liabilities of the taxpayer and must, subject to certain mandatory offsets, refund any balance to the taxpayer. Sections 6401(b)(1) and 6402(a).

In general, to determine the overpayment amount attributable to a refundable tax credit, an individual taxpayer first determines the taxpayer's taxable income for the tax year pursuant

to section 63 of the Code and calculates the amount of tax on the taxable income pursuant to section 1 of the Code. The taxpayer then adds any additions to tax under chapter 1 of the Code (chapter 1), such as excess advance payments of the PTC and repayment of certain other credits, and other taxes imposed by subtitle A, such as the tax on self-employment income. Once the total subtitle A income tax liability is calculated, the taxpayer reduces that amount by the amount of the credits allowable under subparts A, B, D and G of part IV of subchapter A of chapter 1. If this reduced tax liability amount is exceeded by the amount of any refundable tax credits under subpart C of part IV of subchapter A of chapter 1, the excess is an overpayment available for refund, credit, or offset. *See* sections 6401(b)(1) and 6402(a) of the Code.

B. Adoption Tax Credit

Section 23 of the Code allows an individual to claim a tax credit for qualified adoption expenses paid or incurred in connection with an eligible child. Beginning in 2025, under section 23(a)(4), up to \$5,000 (adjusted for inflation for future years) of the credit is refundable.⁷ Section 23(b)(2)(A) imposes income limitations and section 23(h) provides several adjustments for inflation, such as on the income limitations, the cap on qualified adoption expenses, and the cap on the refundable portion of the credit. For example, for taxable year 2025, the adoption tax credit phases out for individuals with adjusted gross income (AGI) over \$259,190 and is fully eliminated for individuals with AGI of \$299,190 or more.

The adoption tax credit is claimed by an individual on a Federal income tax return, and Form 8839, *Qualified Adoption Expenses*. Section 23(f)(1) of the Code requires married individuals to file a joint return to claim the credit unless they meet certain requirements. Section 23(f)(2) of the Code requires the individual to provide the name, age, and tax identification number (TIN) of the adopted child.

C. Child Tax Credit

Section 24(h)(2) of the Code allows eligible taxpayers with a qualifying child or children to claim a CTC of up to \$2,200 for 2025 (adjusted for inflation

² See Memorandum for Brian Callanan, General Counsel, Department of the Treasury, from Jennifer L. Mascott, Deputy Assistant Attorney General, Office of Legal Counsel, *Re: Aliens' Limited Eligibility for Certain Refundable Tax Credits* at 1 (Dec. 9, 2020) (2020 OLC Opinion), available at www.justice.gov/olc/media/1419266/dl?inline.

³ 2020 OLC Opinion at 1, 6. Although the 2020 OLC Opinion uses the term "refundable portion" instead of "refunded portion," it is clear from the discussion on page 7 of the 2020 OLC Opinion that the term "refundable portion" was used to refer to the amount of the refundable portion of certain tax credits that exceeds an individual taxpayer's income tax liability and therefore generates an overpayment. Accordingly, this notice of proposed rulemaking uses the term "refunded portion" instead of "refundable portion" for clarity.

⁴ *Id.* at 1–2.

⁵ Public Law 104–193, 100 Stat. 2105 (1996). Sections 400–451 of PRWORA are codified in title 8 of the United States Code (U.S.C.) at sections 1601 to 1646.

⁶ Memorandum Opinion for the General Counsel, Department of the Treasury, from Lanora C. Pettit, Deputy Assistant Attorney General, Office of Legal Counsel, *re: Status of the Refundable Portion of Certain Tax Credits as Federal Public Benefits*, 49 Op. O.L.C. ___, at 2 (Nov. 19, 2025) (2025 OLC Opinion), available at www.justice.gov/olc/media/1419131/dl.

⁷ Section 70402 of One Big Beautiful Bill Act (OBBBA), Public Law 119–21, 139 Stat. 72 (2025), added paragraph (4) to section 23(a) of the Code, effective for taxable years beginning after December 31, 2024.

for future years) per qualifying child.⁸ The CTC is made up of a nonrefundable and refundable component. If the taxpayer has insufficient Federal income tax liability, the taxpayer may be eligible for the refundable portion of the CTC, generally called the Additional Child Tax Credit (ACTC). The ACTC, under section 24(d) of the Code, is generally calculated using the earned income formula. This formula allows for a refundable credit equal to 15% of the taxpayer's earned income in excess of \$2,500, up to a maximum of \$1,700 per child for 2025 (adjusted for inflation for future years). Under section 24(h)(3) of the Code, the CTC (including the ACTC portion) phases out for taxpayers with modified AGI over \$200,000 and married individuals who file joint returns with modified AGI over \$400,000.⁹ The actual modified AGI level at which the credit equals zero is dependent on the number of qualifying children of the taxpayer.

The CTC is claimed by a taxpayer on a Federal income tax return and Schedule 8812, *Credits for Qualifying Children and Other Dependents*. For taxable years beginning after December 31, 2024, section 24(h)(7) of the Code requires the taxpayer to include the social security number (SSN) of the qualifying child and of the taxpayer (or, in the case of a joint return, the SSN of at least one spouse).¹⁰ For purposes of the CTC, an SSN qualifies only if it is issued—(i) to a citizen of the United States or pursuant to subclause (I) (or that portion of subclause (III) that relates to subclause (I)) of section 205(c)(2)(B)(i) of the Social Security Act (a work eligible SSN), and (ii) before the due date for such return. For taxpayers filing a joint return, only one spouse is required to have a work eligible SSN. The other spouse must have an SSN issued by the Social Security Administration or an individual taxpayer identification number (ITIN) issued by the IRS on or before the due date of the return.

D. American Opportunity Tax Credit

Section 25A(a)(1) of the Code allows an individual to claim a tax credit for qualified education expenses paid for an eligible student for the first four years of postsecondary education. Section

25A(b)(1) of the Code limits the maximum annual credit to \$2,500 per eligible student. Under section 25A(i) of the Code, 40% of the credit amount is refundable. Under section 25A(d) of the Code, the available credit begins to phase out when the individual's modified AGI reaches \$80,000 (\$160,000 for joint filers) and is completely phased out at \$90,000 (\$180,000 for joint filers). Under section 25A(g)(7), an individual who is a nonresident alien for any portion of the taxable year cannot claim the AOTC unless the individual elects to be treated as a U.S. resident alien under section 6013(g) or (h) of the Code.

The AOTC is claimed by an individual on a Federal income tax return and Form 8863, *Education Credits (American Opportunity Credit and Lifetime Learning Credits)*. Section 25A(g)(6) of the Code requires married individuals to file a joint return to claim the AOTC, unless they meet certain requirements. For taxable years beginning after December 31, 2025, section 25A(g)(1) of the Code requires the individual to include the SSN of the individual filing the return and of the individual for whom the qualified education expenses were paid if such individual is other than the taxpayer or the taxpayer's spouse.¹¹ For purposes of the AOTC, an SSN must be a work eligible SSN issued to an individual by the Social Security Administration before the due date for such return.

E. Earned Income Credit

Section 32(a) of the Code allows taxpayers with earned income to claim a refundable tax credit in an amount calculated using the taxpayer's earned income and the credit percentage and income amount specified in section 32(b) of the Code. Eligibility for the credit and the amount allowed as a credit are based upon a number of factors, including the taxpayer's earned income, AGI, investment income, number of qualifying children of the taxpayer as of the end of the taxpayer's tax year, U.S. residency, and identification requirements. Section 32(c) of the Code requires the individual's qualifying children to meet the relationship, residency, and age requirements for purposes of claiming the credit. Section 32(c) of the Code also allows individuals who meet certain age and U.S. residency requirements to claim the EITC if they do not have qualifying children.

Individuals with income above certain thresholds, which vary based on

marital status and number of qualifying children, are ineligible for the EITC. Section 32(c)(1)(D) of the Code does not allow an individual who is a nonresident alien for any portion of the taxable year to claim the credit unless the individual elects to be treated as a U.S. resident under section 6013(g) or (h) of the Code.

The EITC is claimed by an individual on a Federal income tax return. Section 32(d) of the Code requires married individuals to file a joint return to claim the credit, unless they meet certain requirements. If the individual is claiming the EITC for a qualifying child, the individual must also file Schedule EIC, *Earned Income Credit*. Section 32(m) of the Code requires the individual to provide the SSN for themselves, their spouse if married, and any qualifying children. For purposes of the EITC, the SSN must be (i) issued to an individual by the Social Security Administration (other than an SSN issued pursuant to clause (II) (or the portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act), and (ii) issued on or before the due date for filing the return for the taxable year.

F. Premium Tax Credit

Section 36B provides a PTC to applicable taxpayers who meet certain eligibility requirements, and who enroll themselves, or enroll a member of the taxpayer's family, in a qualified health plan (QHP) through an Exchange. An individual is not eligible to enroll in a QHP if the individual is not, or is not reasonably expected to be for the entire period for which enrollment is sought, a citizen or national of the U.S., or an alien lawfully present in the U.S. See section 1312 of the Affordable Care Act (ACA) (42 U.S.C. 18032).¹² Section 36B(e)(1)(A) provides that if one or more individuals in a taxpayer's family (including the taxpayer) are aliens not lawfully present in the U.S., the enrollment premiums and adjusted monthly premiums for the applicable benchmark plan otherwise taken into account in determining the taxpayer's PTC must be reduced by the portion of such premiums attributable to the individuals who are aliens not lawfully present in the U.S. The OBBBA amended section 36B(e)(1) to provide

⁸ Section 24(h)(2) of the Code was made permanent by section 70104 of the OBBBA, effective for taxable years beginning after December 31, 2024.

⁹ The income thresholds under section 24(h)(3) were made permanent by section 70104 of the OBBBA, effective for taxable years beginning after December 31, 2024.

¹⁰ Section 24(h)(7) of the Code was amended by section 70104 of the OBBBA, effective for taxable years beginning after December 31, 2024.

¹¹ Section 25A(g)(1) of the Code was amended by section 70605 of the OBBBA, effective for taxable years beginning after December 31, 2024.

¹² The Affordable Care Act refers to the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted on March 30, 2010) and OBBBA. While the ACA does not define “lawfully present,” it is defined in regulations and includes valid nonimmigrant status holders. See 45 CFR 155.20.

that for tax years beginning after December 31, 2026, such premiums must also be reduced for aliens who are lawfully present in the U.S. but who are not eligible aliens, a narrower category of non-citizens.

G. Saver's Match

Section 6433 allows certain low- and moderate-income individuals who make qualified retirement savings contributions to receive matching contributions of up to \$1,000 (Saver's Match contributions) paid by the Secretary of the Treasury or the Secretary's delegate (Secretary) to applicable retirement savings vehicles for tax years beginning after December 31, 2026. Eligible individuals may elect to have matching contributions of less than \$100 "treated as a credit allowed by subpart C of part IV of subchapter A of chapter 1." Section 6433(a)(2)(B).

H. Application of Federal Public Benefit Definition

PRWORA defines "Federal public benefit", in relevant part, to encompass certain types of benefits for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.¹³ In analyzing this definition's application to individual refundable income tax credits, OLC first examined whether the refunded portion of such credits constitutes a "benefit." ¹⁴ OLC opined that the refunded portion of such credits is a benefit based on the ordinary meaning of the word since it results in a payment from the Federal government to the taxpayer that goes beyond a return of money paid by the taxpayer to the Federal government.¹⁵

OLC also opined that the refunded portion of individual refundable income tax credits provides a "payment" because it gives the taxpayer money that

the taxpayer did not earn and would not have received but for the existence of the government program.¹⁶ OLC distinguished the refunded portion of individual refundable income tax credits from an "ordinary tax refund," which it described as a return to the taxpayer of his own money that Treasury had held until the taxpayer's net obligations for the tax period could be settled. Finally, OLC opined that the refunded portion of an individual refundable income tax credit is provided to an individual, household, or family eligibility unit (that is, the taxpayer, who is either an individual or the joint-filing members of a household) by an agency (the Treasury Department, through the IRS) or by appropriated funds of the United States (namely the permanent indefinite appropriation of amounts necessary for refunding internal revenue collections in 31 U.S.C. 1324).¹⁷

After concluding this general analysis, OLC next considered whether each of the EITC, ACTC, and AOTC falls within the kinds of benefits identified in 8 U.S.C. 1611(c)(1)(B), which are "any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit or any other similar benefit" ¹⁸ OLC opined that both the EITC and the ACTC are welfare or other similar benefits and that the AOTC is a postsecondary education benefit. In 2025, OLC opined that the PTC is a health or similar benefit and the Saver's Match is a retirement or similar benefit.¹⁹ In sum, OLC concluded that the refunded portion of the EITC, ACTC, AOTC, PTC, and Saver's Match are "Federal public benefits" as defined in PRWORA. The Treasury Department and the IRS incorporate the reasoning and conclusions of the 2020 and 2025 OLC Opinions for purposes of these proposed regulations unless otherwise described in this preamble.

The proposed regulations would apply PRWORA to the following individual refundable income tax credits: the (1) adoption tax credit, (2) CTC, (3) AOTC, and (4) EITC, collectively referred to as the "affected refundable tax credits" in this notice of proposed rulemaking. While the adoption tax credit, which was made partially refundable by the OBBA,²⁰

has not been addressed by OLC, it is included in the proposed regulations as a "similar benefit." Though the list of enumerated benefits in section 401(c)(1)(B) of PRWORA does not include any items that relate to adoption, the Department of Health and Human Services (HHS) has determined that Federal adoption assistance benefits are Federal public benefits.²¹ The adoption tax credit, although not identical, is sufficiently similar to Federal adoption assistance benefits in that it provides a Federal incentive to promote adoptions, and thus, it would make sense to treat it the same way for purposes of PRWORA. Accordingly, the proposed regulations would treat the refunded portion of the adoption tax credit as a Federal public benefit within the meaning of PRWORA.

The proposed regulations would not apply PRWORA to the refunded portion of the PTC. Although OLC determined that the refunded portion of the PTC is a Federal public benefit for purposes of PRWORA, it stated that its conclusion does not automatically mean that all aliens who are not qualified aliens under PRWORA are ineligible to receive it, noting that "Congress can always supersede existing statutes, including PRWORA, with later-[en]acted laws." ²² OLC further noted that Congress addressed restrictions on the PTC by including specific statutory language on immigration status in two later-enacted statutes, the ACA and OBBA. See section 36B(e) (limiting the PTC for the coverage of an alien to aliens lawfully present for tax years beginning before January 1, 2027, and to eligible aliens for tax years beginning after December 31, 2026). The proposed regulations would not apply PRWORA to the refunded portion of the PTC based on the view that these restrictions supersede and override PRWORA. Under both the ACA and OBBA, Congress specifically addressed immigration status as it relates to the computation of and eligibility for the PTC. As an example, under the ACA, Congress allowed only U.S. citizens, U.S. nationals, or "lawfully present" aliens to enroll in a QHP through an Exchange, and a taxpayer could only receive the PTC for the coverage of these enrollees. Congress also provided a special rule that allowed aliens lawfully present in the U.S. who were ineligible for Medicaid because of their

¹³ 8 U.S.C. 1611(c) defines "Federal public benefit" as follows:

(1) Except as provided in paragraph (2), for purposes of this chapter the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

¹⁴ 2020 OLC Opinion at 6–7.

¹⁵ When describing how a refundable credit may provide a payment to a taxpayer who owes less tax than the amount of the credit, the 2020 OLC Opinion relies on sections 6401(b) and 6402 of the Code. See 2020 OLC Opinion at 1.

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 8.

¹⁸ 2020 OLC Opinion at 11–14; 2025 OLC Opinion at 16–19.

¹⁹ 2025 OLC Opinion at 2 and 18–19.

²⁰ However, the adoption credit previously was made fully refundable by the ACA for tax years 2010 and 2011. See section 10909 of the ACA.

²¹ See HHS Notice 63 FR 41658 (August 4, 1998) (stating that HHS adoption assistance programs are generally Federal public benefits). This Notice was revised to include additional programs as Federal public benefits in 2025 (90 FR 31232) (July 14, 2025).

²² 2025 OLC Opinion at 18.

immigration status to receive the PTC despite having household income that generally would make them ineligible for the PTC. *See* section 36B(c)(1)(B) as in effect for taxable years beginning on or before December 31, 2025. Thus, for PTC purposes, Congress not only restricted the allowance of the PTC on the basis of specific immigration status, but it specifically allowed those who were ineligible for Medicaid, due to the PRWORA limitations, to receive the PTC. Under the OBBBA, Congress further restricted aliens' eligibility for the PTC by disallowing a PTC for the coverage of aliens who are not "eligible aliens," a narrower category than qualified aliens under PRWORA. *See* section 36B(e)(2).

In addition, the OBBBA enacted a new program to be administered under the Code, the Trump Accounts Contribution Pilot Program. Although not a tax credit, section 6434 of the Code provides for a one-time, \$1,000 pilot program contribution paid by the Secretary into an eligible child's Trump account.²³ Contributions under the Pilot Program are restricted to children who are U.S. citizens. *See* section 6434(c)(3). Accordingly, there is no need to determine whether the Trump Accounts Contribution Pilot Program is a Federal public benefit under PRWORA because, even if it is, the OBBBA provision limiting account contributions to U.S. citizens would supersede and override PRWORA.

Finally, regarding the Saver's Match, which is effective for tax years beginning in 2027, the Treasury Department and IRS intend to promulgate proposed regulations regarding the Saver's Match separately.

Explanation of Provisions

I. Refunded Portion of Certain Individual Refundable Income Tax Credits Are Federal Public Benefits Under PRWORA

These proposed regulations would provide that PRWORA is applicable to the refunded portion of the affected refundable tax credits. Specifically, proposed §§ 1.23–2(a), 1.24–3(a), 1.25A–7(a), and 1.32–4(a) each would provide that, pursuant to PRWORA, aliens who are not qualified aliens are not eligible to receive the Federal public benefit of the refunded portion of the affected refundable tax credits under sections 23, 24, 25A and 32, respectively.

Proposed § 1.32–4(b) would set forth definitions of the operative PRWORA

terms that apply for purposes of applying proposed § 1.32–4(a). For example, proposed § 1.32–4(b)(1) would provide that for purposes of applying PRWORA to the refunded portion of the EITC, the term "alien" has the same definition as in section 101(a) of the Immigration and Nationality Act, Public Law 82–414, 66 Stat. 163, 8 U.S.C. 1101(a)(3). Proposed § 1.32–4(b)(4) would provide that the term "qualified alien" has the same definition as in section 431(b) of PRWORA (8 U.S.C. 1641(b)). Finally, consistent with the OLC conclusion that the refunded portions of the affected refundable tax credits (that is, the portion that exceeds the individual's tax liability and generates an overpayment under 26 U.S.C. 6401(b)(1)) are Federal public benefits within the meaning of 8 U.S.C. 1611(c), proposed § 1.32–4(b)(2) would adopt this same definition of a Federal public benefit for purposes of applying proposed § 1.32–4(a). Sections 1.23–2(b), 1.24–3(b), and 1.25A–7(b), would adopt all of the PRWORA operative definitions applicable to the affected refundable tax credits by cross reference to § 1.32–4(b).

II. Definition of Refunded Portion of Refundable Tax Credit

The proposed regulations would provide that only the refunded portion of an affected refundable tax credit is a Federal public benefit. Accordingly, if the taxpayer is eligible for the affected refundable tax credit under the Code, the proposed regulations would bar receipt only of the portion of the sum of those affected refundable tax credits that exceeds the income tax liability imposed by subtitle A (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1).²⁴ Although the proposed definition of a Federal public benefit is similar to what is considered to be an overpayment in section 6401(b)(1), it is not the same because it is limited to affected refundable tax credits. If the taxpayer is not a U.S. citizen, U.S. national, or qualified alien, the amount considered to be the overpayment under section 6401(b) that is available for credit, offset, or refund, which may include other refundable tax credits that are not affected refundable tax credits,

would be reduced by the amount of the Federal public benefit.

Proposed §§ 1.23–2(d), 1.24–3(d), 1.25A–7(d), and 1.32–4(d) would clarify who can receive the refunded portion of the affected refundable tax credit under PRWORA by providing that unless a taxpayer is a U.S. citizen, U.S. national, or qualified alien, the taxpayer is not eligible to receive a refund, credit, or offset of the refunded portion of the affected refundable tax credit.

III. Timing of Alien Status Determination

As explained in the Background section of this preamble, to be a qualified alien, an individual must fall within one of the defined categories in 8 U.S.C. 1641(b) "at the time the alien applies for, receives, or attempts to receive a Federal public benefit." The proposed regulations would provide that an alien must be a qualified alien, for purposes of receiving the refunded portion of the affected refundable tax credits, on the date the alien files a Federal income tax return first claiming the affected refundable tax credit. This rule would apply to the Federal income tax return first claiming the affected refundable tax credit, which may be, for example, an early return, amended return, or late return. Using the filing date the taxpayer first claimed the credit would best align Code and tax administration concepts with PRWORA's requirement that an alien be a qualified alien at the time the alien applies for, attempts to receive, or receives the Federal public benefit. In addition, under the Code, a taxpayer either claims or does not claim a credit, and portions of a single credit cannot be claimed at different times. Consequently, the date on which the taxpayer first claims the credit is the most appropriate date for determining whether the taxpayer satisfies PRWORA's qualified alien requirement for the Federal public benefit. Accordingly, sections 1.23–2(e), 1.24–3(e), 1.25A–7(e), and 1.32–4(e) of the proposed regulations would provide that each taxpayer claiming one or more of the affected refundable tax credits must be a U.S. citizen, U.S. national, or qualified alien on the date of filing an initial or amended Federal income tax return first claiming the credit for the taxable year in order to be eligible to receive the refunded portion of the tax credit. Proposed §§ 1.23–2(f), 1.24–3(f), 1.25A–7(f), and 1.32–4(f) would provide examples illustrating the applicability of the timing rule to the claim of the refunded portion of an affected refundable tax credit.

²³ The Treasury Department and the IRS recently issued proposed regulations concerning section 6434. *Trump Accounts Contribution Pilot Program*, 91 FR 11203 (Mar. 9, 2026).

²⁴ If a taxpayer claims more than one of the affected refundable tax credits (for example, both ACTC and AOTC), then the "refunded portion" of the affected refundable tax credits refers to the total amount of such credits exceeding tax liability. The claimed credit amounts are added together before determining the amount of the credits exceeding tax liability.

IV. Joint Returns With Only One Spouse Meeting the Requirements Under PRWORA

The EITC, AOTC, and the adoption tax credit generally require married individuals to file a joint return to claim the credit. The CTC does not require spouses to file a joint return, but spouses may elect to file a joint return. If married individuals filing a joint return meet the Code's eligibility requirements of the specific refundable tax credit being claimed, and the amount of the affected refundable tax credit(s) exceeds the joint filers' tax liability, then the proposed regulations would require that one of the joint filers be a U.S. citizen, U.S. national, or qualified alien to receive the joint refund, credit, or offset of the refunded portion of any of the affected refundable tax credits. *See* proposed §§ 1.23–2(b), 1.24–3(b), 1.25A–7(b), and 1.32–4(b)(4).

V. Self-Certification

Under the proposed regulations, each individual (or one spouse in the case of a joint return) claiming an affected refundable tax credit that results in a Federal public benefit would be required to provide a declaration under penalty of perjury stating that the individual is a U.S. citizen, U.S. national, or qualified alien who is eligible to receive the claimed refund under PRWORA. This declaration or attestation would need to be made on the appropriate Federal income tax return, amended tax return, or schedule as required by the IRS. The IRS intends to update forms and instructions to reflect this requirement. Under section 6061(a) of the Code, all returns and refund claims must “be signed in accordance with forms or regulations prescribed by the Secretary.” *See also* § 1.6061–1(a). These documents must also be “verified by a written declaration that [they are] made under the penalties of perjury.” Section 6065 of the Code; *see also* §§ 1.6065–1(a), 301.6065–1, § 301.6402–2(b)(1). An individual who fails to provide the required declaration in the manner and on the form or schedule required by the IRS would not be eligible to receive the refunded portion of any of the affected refundable tax credits claimed on the return for the taxable year.

Section 7206 of the Code provides that willfully providing incorrect or untrue information on a tax return constitutes a felony. Penalties for violations of section 7206 include liability for a fine up to \$100,000 and being sentenced to up to 3 years in prison. *See also* section 7207 of the Code. Additionally, 18 U.S.C. 1015(e)

punishes as a felony any knowing false statement that one is a citizen or a national of the United States with the intent to obtain any Federal or State benefit or service. Finally, with respect to Federal public benefits, 18 U.S.C. 1001 provides that it is a felony to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of any branch of the Federal Government.

Proposed Applicability Date

These proposed regulations are proposed to apply for taxable years ending on or after the date these regulations are published as final regulations in the **Federal Register**.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The proposed regulations have been designated by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. OIRA has determined that the proposed rulemaking is a significant regulatory action and subject to review under Executive Order 12866 and section 1(b) of the Memorandum of Agreement. Accordingly, the proposed regulations have been reviewed by OMB. The proposed rulemaking is not expected to be considered a regulatory action under Executive Order 14192 because it does not impose any more than de minimis regulatory costs.

A. Need for Regulation

Tax credits provide a dollar-for-dollar reduction in tax liability. When a tax credit is refundable, any portion of the credit that exceeds the taxpayer's liability may be refunded to the taxpayer. Because tax credits are

typically designed to advance specific policy objectives, refundability ensures that low- and moderate-income taxpayers with little or no income tax liability can still benefit, thereby supporting the intended purpose of the credit. Some individual refundable income tax credits have similar eligibility requirements, but the specific rules generally differ across credits. For example, the EITC is intended to encourage work and requires taxpayers to have earned income; the CTC, designed to support families, conditions eligibility on the presence of qualifying children; and the AOTC is aimed at reducing the cost of higher education and requires enrollment of an eligible student in an eligible institution and payments of qualified expenses.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) defines the term “Federal public benefit” as “any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.” Under PRWORA, other than in limited exceptions, aliens who are not qualified aliens are not eligible for any Federal public benefits. The Treasury Department and the IRS have not previously considered individual refundable income tax credits to constitute Federal public benefits under PRWORA.

In 2020, in response to the Treasury's request for an opinion, the Office of Legal Counsel (OLC) at the Department of Justice opined (2020 Opinion) that the refunded portions of the EITC, CTC, and AOTC satisfies PRWORA's definition of a Federal public benefit. Subsequently in November 2025, in response to the Treasury's second request for an opinion, the OLC concluded in an opinion (2025 Opinion) that its 2020 Opinion reflects the best reading of the law and that the refunded portions of certain individual refundable income tax credits are within the meaning of Federal public benefits under PRWORA.

The proposed regulations would clarify how the term “Federal public benefit” as used in PRWORA applies to certain individual refundable income tax credits administered under the Code.

B. The Statute and the Proposed Regulations

The proposed regulations would apply PRWORA to the following four individual refundable income tax credits—the adoption tax credit, the CTC, the AOTC, and the EITC.

Section 23 of the Code allows eligible taxpayers to claim the adoption tax credit to offset the costs of adopting a child. Beginning in tax year 2025, up to \$5,000 of the credit is refundable. To claim the credit, taxpayers must include on the return the Taxpayer Identification Number (TIN) of the adopted child. Married individuals must file a joint return to claim the credit unless exceptions apply.

Section 24 allows eligible taxpayers to claim the CTC of up to \$2,200 for tax year 2025 (adjusted for inflation thereafter) for each qualifying child. The refundable portion of the CTC is referred to as the additional child tax credit (ACTC), which is calculated as 15 percent of the taxpayer's earned income in excess of \$2,500, up to \$1,700 per qualifying child for tax year 2025 (adjusted for inflation thereafter). To be eligible, the qualifying child and the taxpayer (or the taxpayer's spouse if filing jointly) must have work eligible SSNs issued before the due date of the tax return. For married individuals filing a joint return, if only one spouse meets the work eligible SSN requirements, the other spouse must have an SSN or Individual Taxpayer Identification number (ITIN) issued on or before the due date of the return. Married individuals who file separate returns are eligible to claim the CTC, but the credit begins to phase out at a lower income level than for those filing jointly.

Section 25A(a)(1) allows taxpayers to claim the AOTC for qualified education expenses paid for an eligible student for the first four years of postsecondary education. The maximum annual credit is \$2,500 per student, and 40 percent of the credit amount is refundable. To be eligible, the taxpayer (or the taxpayer's spouse if filing jointly) and the student (if not the taxpayer or spouse) must have work eligible SSNs issued before the due date of the tax return. Married individuals must file a joint return to claim the credit unless exceptions apply.

Section 32 allows taxpayers with earned income to claim the EITC, which is fully refundable. The maximum EITC amount varies with the number of qualifying children the taxpayer has. For tax year 2025, the maximum credit amount is \$649 for taxpayers with no qualifying child, \$4,328 for taxpayers

with one qualifying child, \$7,152 for taxpayers with two qualifying children, and \$8,046 for taxpayers with three or more qualifying children. To be eligible, the taxpayer (both spouses if filing jointly) as well as the qualifying child must have valid SSNs issued on or before the filing due date of the tax return. For the EITC, an SSN is not valid if it is issued solely to allow an individual to receive or apply for a Federal funded benefit. Married individuals must file a joint return to receive the credit unless exceptions apply.

Under sections 6401 and 6402 of the Code, when the amount of a refundable tax credit (under subpart C of part IV of subchapter A of chapter 1) exceeds the tax imposed by subtitle A (reduced by nonrefundable tax credits), the amount of that excess is treated as an overpayment of tax and may be refunded to the taxpayer. Specifically, under section 6402, the IRS may credit the overpayment against any Federal tax liabilities of the taxpayer and shall, subject to certain mandatory offsets, refund any balance to the taxpayer.

Under section 401(a) of PRWORA (8 U.S.C. 1611(a)), aliens who are not qualified aliens as defined in 8 U.S.C. 1641 are not eligible for any Federal public benefit as defined in PRWORA, with certain narrow exceptions. Section 431(b) of PRWORA (8 U.S.C. 1641(b)) defines a qualified alien as an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, meets certain alien status requirements, including “(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act, (2) an alien who is granted asylum under section 208 of such Act, (3) a refugee who is admitted to the United States under section 207 of such Act, (4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, (5) an alien whose deportation is being withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Pub. L. 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Pub. L. 104–208), (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980, (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980), or (8) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 1612(b)(2)(G) of [title 8].” Qualified aliens also include aliens who

have been battered or subject to extreme cruelty in the United States and meet certain requirements.

These proposed regulations would clarify that the eligibility restrictions under PRWORA mentioned above would apply to the refunded portion of the following four refundable tax credits—the adoption tax credit, the CTC, the AOTC, and the EITC. Furthermore, these proposed regulations would provide that only the refunded portion of an affected refundable tax credit is a Federal public benefit. Accordingly, if the taxpayer is eligible for the affected refundable tax credit under the Code, these proposed regulations would bar receipt only of the portion of the sum of those affected refundable tax credits that exceeds the income tax liability imposed by subtitle A (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1). If the taxpayer is not a U.S. citizen, U.S. national, or qualified alien, the amount considered to be the overpayment under section 6401(b) that is available for credit, offset, or refund, which may include other refundable tax credits would be reduced by the amount of the Federal public benefit. The proposed regulations would also establish the timing, in accordance with PRWORA, for determining the taxpayer's eligibility for Federal public benefits administered under the Code. Finally, the proposed regulations would clarify the application to joint returns with only one spouse meeting the status requirements under PRWORA.

C. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

D. Affected Taxpayers

The Department of the Treasury and the IRS estimate that, for tax year 2026, 49 million Federal individual income tax returns (*i.e.*, taxpayers) will claim at least one of the four affected refundable tax credits—the adoption tax credit, the CTC, the AOTC, and the EITC. Of these taxpayers, an estimated 24 million will claim an affected refundable tax credit that results in a Federal public benefit. The Department of the Treasury and the IRS do not have data on a taxpayer's qualified alien status with respect to PRWORA to precisely estimate the number of affected taxpayers. There is no direct data to estimate the number of non-qualified aliens whose claims for

the affected refundable tax credits would be disallowed under the proposed regulation. A rough estimate based on data from the Social Security Administration shared with the IRS for tax administration, United States Citizenship and Immigration Services statistics,²⁵ and historical Department of Homeland Security estimates of non-immigrants residing in the U.S.²⁶ suggests that, of the 24 million taxpayers claiming the Federal public benefit, a range of 200,000 to 700,000 taxpayers (0.8 to 2.8 percent) would likely be ineligible to receive it for tax year 2026 because they do not meet the qualified alien status requirements under PRWORA. These estimated numbers of affected taxpayers assume static behavior and do not account for potential behavioral responses to the proposed rulemaking, once finalized, that would affect whether a taxpayer claims an affected refundable tax credit or whether the claim contains a refunded portion.

E. Economic Effects of the Proposed Regulations

These proposed regulations would implement PRWORA's requirements for Federal public benefits administered under the Code while minimizing taxpayer burden and other economic effects. In general, the proposed regulations, which would clarify the process for implementing PRWORA to the refunded portions of the affected refundable tax credits, are expected to have limited economic effects. Under the Code, taxpayers are generally required to have a valid SSN to be eligible for these credits. For tax year 2026, approximately only 200 thousand to 700 thousand taxpayers are estimated to be ineligible to receive the refund of the overpayment, have it credited against Federal tax liabilities, or use it to offset non-tax liabilities, due to the proposed regulations. The Department of the Treasury and the IRS do not have data on a taxpayer's qualified alien status with respect to PRWORA to precisely estimate the dollar amount that would be disallowed under the proposed regulations. The estimated average amount of Federal public benefits for all taxpayers whose claims include the refunded portion of at least

one affected refundable tax credit is \$3,656 in 2026. Applying this average Federal public benefit for all taxpayers to the estimated range of affected taxpayers translates into an estimate of \$0.7 billion to \$2.6 billion of disallowed credits. In addition, these taxpayers would still be eligible to receive the nonrefunded portion of the credits if they meet eligibility requirements for the credits. Given the limited scope, any potential behavioral responses by affected taxpayers to the proposed regulations, such as changes to the extensive or intensive margin of labor supply decisions, would not be expected to have a significant impact on the economy.

1. Identifying Claims of a Federal Public Benefit

Under the proposed regulations, taxpayers who claim any of the four affected refundable tax credits would need to identify whether their claim for the credits includes a Federal public benefit, which these proposed regulations would limit to the refunded portion of the credits. Tax software, if used by the taxpayer, is expected to automatically generate this amount based on information provided by taxpayers during the return preparation process. This would reduce the compliance burden for taxpayers using software to complete their tax returns. The Department of the Treasury and the IRS estimate that more than 96 percent of the Federal individual income tax returns use assistance from consumer or professional tax software.

2. Self-Certification of Eligibility for a Federal Public Benefit

As previously explained in the preamble, taxpayers claiming an affected refundable tax credit that results in a Federal public benefit would be required to provide a declaration or attestation, under the penalty of perjury, stating if they are U.S. citizens, U.S. nationals, or qualified aliens under PRWORA who are eligible for the Federal public benefit claimed. Taxpayers would provide a written declaration on the Federal income tax return or on a schedule attached to the return, as prescribed by the IRS, stating their status eligibility for the Federal public benefit claimed. To minimize compliance burden, taxpayers would not be required to provide a separate document attesting eligibility under PRWORA.

3. Alternatives Considered

a. Individuals Required To Self-Certify Eligibility Status Before Identifying the Receipt of a Federal Public Benefit

An alternative to the aforementioned self-certification process is first to require every individual who claims any of the four affected refundable tax credits to self-certify eligibility status and then require aliens who are not qualified aliens for Federal public benefits under PRWORA to calculate the amount of the overpayment they would not be eligible for.

Relative to the self-certification process, this alternative would subject fewer taxpayers to the identification of overpayments but would require more individuals, including those whose claim for the affected refundable tax credits does not have a refunded portion, to self-certify whether they are U.S. citizens, U.S. nationals, or qualified aliens under PRWORA. To restrict the attestation of eligibility status only to those who are required to self-certify under PRWORA, *i.e.*, those who claim a Federal public benefit, the self-certification process would require that taxpayers claiming any of the affected refundable tax credits first identify the refunded portion of their claim and then only those whose claim has a refunded portion would self-certify eligibility status. Given the wide prevalence of the use of consumer or professional tax software in return preparation, the cost for this calculation of the refunded portion is expected to be insignificant for most taxpayers.

b. Joint Returns With One Spouse Meeting the PRWORA Requirements

For married individuals filing a joint return, under these proposed regulations, one spouse would be required to be a U.S. citizen, U.S. national, or qualified alien under PRWORA for the married individuals to receive the full refunded portion of the affected refundable tax credits, have it credited against the couple's Federal tax liabilities, or use it to offset the couple's non-tax liabilities. An alternative approach would require married individuals with one spouse who is not a qualified alien to prorate the applicable credit or credits based on IRS-prescribed allocation rules that would account for each spouse's eligibility status and a range of considerations specific to each credit. For example, allocations for the EITC could be based on which spouse had earned income whereas allocations for the other credits could be based on the share of qualified expenses contributed by, or other factors attributable to, each

²⁵ U.S. Citizenship and Immigration Services, *Immigration and Citizenship Data*. Available at www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data.

²⁶ Department of Homeland Security, Office of Immigration Statistics, *Population Estimates of Nonimmigrants Residing in the United States: Fiscal Years 2017–2019*. Available at https://ohss.dhs.gov/sites/default/files/2023-2/nii-population_estimates_fiscal_years_2017_-_2019v2.pdf. Accessed August 3, 2026.

spouse. This alternative is complex because it would subject joint filers claiming the affected refundable tax credits to new credit allocation rules and additional tax computations that would not have been required otherwise. In addition, depending on the credit and the allocation rules, the IRS may lack the necessary third-party information reports to verify the spouse's contributed expenses, income, or other factors used to determine the credit amount for which the qualified alien spouse is eligible. To reduce taxpayer burden and potential return errors, the proposed regulations provide that, for married individuals filing a joint return, if one spouse is a U.S. citizen, a U.S. national, or a qualified alien, then the other spouse would be treated as a qualified alien.

F. Summary

Based on the available data and analysis, the Treasury Department and the IRS estimate that the economic costs and benefits of the proposed regulations will be small. The Treasury Department and the IRS invite public comments on potential alternatives and additional data related to the economic effects that will result from these proposed regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in these proposed regulations contain reporting and recordkeeping requirements that are necessary to ensure that individual refundable income tax credits are not received by aliens who are not qualified aliens pursuant to PRWORA. The collections will be used by the individual taxpayers claiming one or more of the affected refundable income tax credits to certify their legal status. The IRS will use the information for tax compliance purposes.

The proposed regulations include reporting requirements for taxpayers to self-certify under penalty of perjury that they are a U.S. citizen, U.S. national, or qualified alien who is eligible to receive the claimed refund as described in

proposed §§ 1.23–1, 1.23–2, 1.24–2, 1.24–3, 1.25A–6, 1.25A–7, 1.32–1 and 1.32–4. Taxpayers will be able to complete this certification by completing Schedule 3–A, or other form as determined by the Treasury Secretary. Schedule 3–A, or its successor form, will be filed along with their 1040 tax return.

The likely respondents are individuals who file a Form 1040. For purposes of the PRA, the reporting requirements and associated burden will be included in the Paperwork Reduction Act Submissions associated with Form 1040 (OMB control number 1545–0074) and approved by the OMB in accordance with the PRA procedures under 5 CFR 1320.10.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103. These recordkeeping requirements are considered general tax records under § 1.6001–1(e) and are already approved by the OMB under 1545–0074. This proposed regulation is not creating or changing the general recordkeeping requirements under § 1.6001–1(e).

III. Regulatory Flexibility Act

The Secretary of the Treasury hereby certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The proposed rules would not impose any requirement or obligation upon small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, the proposed regulations will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on their impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These proposed regulations do not include any Federal

mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Public Hearing

Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of these proposed regulations is available on the rulemaking docket at <https://www.regulations.gov>.

Before the proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Specifically, the Treasury Department and the IRS request comments on the proposed rule of eligibility determination. All comments submitted will be available at <https://www.regulations.gov> or upon request.

A public hearing is being held on October 14, 2026, beginning at 10 a.m. ET at the Internal Revenue Service Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed as well as the time to be devoted to each topic by October 5, 2026. A period of ten minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS

will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. If no outlines of the topics to be discussed at the hearing are received by October 5, 2026, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to publichearings@irs.gov to have their name added to the building access list. The subject line of the email must contain the regulation number REG-119882-25 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG-119882-25.

Individuals who want to testify by telephone at the public hearing must send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-119882-25 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG-119882-25.

Individuals who want to attend the public hearing in person without testifying must also send an email to publichearings@irs.gov to have their name added to the building access list. The subject line of the email must contain the regulation number REG-119882-25 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing in Person for REG-119882-25. Requests to attend the public hearing must be received by 5:00 p.m. ET on October 9, 2026.

Individuals who want to attend the public hearing telephonically without testifying must also send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-119882-25 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG-119882-25. Requests to attend the public hearing must be received by 5:00 p.m. ET on October 9, 2026.

Hearings will be made accessible to people with disabilities. To request special assistance during the hearing, contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to publichearings@irs.gov (preferred) or by

telephone at (202) 317-6901 (not a toll-free number) by at least October 8, 2026.

Statement of Availability of Documents

Opinions from the Office of Legal Counsel, Department of Justice, (OLC) that are cited in this preamble are available by visiting the OLC website at <https://www.justice.gov/olc/opinions-main> (if selected for official publication). If not selected for official publication, an opinion may be available at <https://www.justice.gov/olc/olc-foia-electronic-reading-room> if it has been posted publicly by the OLC as a matter of discretion, generally because it is the subject of repeated requests or of public or historical interest. The 2020 OLC Opinion cited in this preamble is currently available at the OLC's electronic reading room. The 2025 OLC Opinion cited in this preamble is available at the OLC's main opinions page.

Drafting Information

The principal authors of these proposed regulations are personnel from the Office of the Associate Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries for §§ 1.23-2, 1.24-3, 1.25A-7, and 1.32-4 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
 * * * * *
 Section 1.23-2 also issued under 8 U.S.C. 1614.
 * * * * *
 Section 1.24-3 also issued under 8 U.S.C. 1614.
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 Section 1.25A-7 also issued under 8 U.S.C. 1614.
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 Section 1.32-4 also issued under 8 U.S.C. 1614.
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■ **Par. 2.** Sections 1.23-1 and 1.23-2 are added to read as follows:

§ 1.23-1 [Reserved]

§ 1.23-2 Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(a) *In general.* Section 23 of the Internal Revenue Code (Code) allows eligible individuals a credit of an amount determined under section 23 (section 23 credit) against the tax imposed by subtitle A of the Code for the taxable year. This section applies Title IV of PRWORA with respect to the refunded portion of the section 23 credit. See 8 U.S.C. 1611(a), (c)(1).

(b) *Definitions.* For the definition of terms used for purposes of this section, see § 1.32-4(b).

(c) *Refunded portion of the section 23 credit—(1) In general.* The refunded portion of the section 23 credit is the portion of the section 23 credit determined under section 23(a)(4) that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code).

(2) *Multiple individual refundable income tax credits claimed.* In the event the taxpayer has also claimed a refundable credit under sections 24, 25A, or 32 of the Code, or another individual refundable income tax credit for which the refunded portion is specified by the Secretary in regulations as subject to PRWORA, the taxpayer must first sum all such refundable credits claimed, and then calculate the portion of the sum of these credits that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code). The refunded portion of the section 23 credit is included within this portion.

(d) *Federal public benefit as applied to section 23.* The refunded portion of the taxpayer's section 23 credit is a Federal public benefit. A taxpayer who satisfies the requirements of section 23 is eligible to receive the refunded portion of the section 23 credit, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities, only if the taxpayer is a U.S. citizen, U.S. national, or qualified alien and so declares under penalty of perjury (on the appropriate Federal income tax return, amended tax return, or schedule as required by the IRS).

(e) *Determination for eligibility of refunded portion of section 23 credit.* For purposes of receiving the refunded portion of the section 23 credit, having it credited against the taxpayer's unpaid tax liabilities, or having it offset against

specified non-tax liabilities, a taxpayer's status as a U.S. citizen, U.S. national, or qualified alien is determined on the date the taxpayer files the taxpayer's return for the taxable year that first claims the section 23 credit (without regard to whether the return is deemed by the Code to be filed on another date).

(f) *Examples.* The following examples illustrate the rules of this section. In each example below, the taxpayer meets the requirements under title 26 to claim the section 23 credit for the taxable year:

(1) *Example 1: Timely-filed return claiming the tax credit.* The due date of taxpayer A's return is April 15. A files A's return for the taxable year on April 15, claiming the section 23 credit. On April 15, A is a U.S. citizen, U.S. national, or qualified alien. Because A is a U.S. citizen, U.S. national, or qualified alien on the date A files A's return claiming the section 23 credit for the taxable year, A is eligible to receive the refunded portion of the section 23 credit, have it credited against A's unpaid tax liabilities, or have it offset against A's specified non-tax liabilities.

(2) *Example 2: Claiming the tax credit on an early return.* The due date of taxpayer B's return is April 15. B files B's return on February 1, claiming the section 23 credit. On February 1, B is a U.S. citizen, U.S. national, or qualified alien. Accordingly, B is eligible to receive the refunded portion of the section 23 credit, have it credited against B's unpaid tax liabilities, or have it offset against B's specified non-tax liabilities.

(3) *Example 3: Claiming the tax credit on a late return.* The due date of taxpayer C's return is April 15. C does not file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, for the taxable year. On November 1, within the period of limitations prescribed in section 6511 of the Code on filing a claim for refund, C files C's return claiming the section 23 credit. On November 1, C is a U.S. citizen, U.S. national, or qualified alien. Accordingly, C is eligible to receive the refunded portion of the section 23 credit, have it credited against C's unpaid tax liabilities, or have it offset against C's specified non-tax liabilities.

(4) *Example 4: Claiming the tax credit on an amended return after a status change.* The due date of taxpayer D's return is April 15. D files D's return for the taxable year on April 15, claiming the section 23 credit. However, on April 15, D is not a U.S. citizen, U.S. national, or qualified alien. Accordingly, D is not eligible to receive the refunded portion of the section 23 credit, or to have it credited against D's unpaid tax

liabilities or have it offset against D's specified non-tax liabilities. On December 1, D becomes a U.S. citizen, U.S. national, or qualified alien. On December 15, within the period of limitation prescribed in section 6511 on filing a claim for refund, D files an amended return for the taxable year, updating D's status under PRWORA. Although D is a U.S. citizen, U.S. national, or qualified alien on December 15, D was not a U.S. citizen, U.S. national, or qualified alien when D first claimed the section 23 credit, so D is not eligible to receive the refunded portion of the section 23 credit.

(5) *Example 5: Claiming the tax credit for the first time on an amended return after a status change.* Same facts as paragraph (f)(4) of this section (*Example 4*), except that D did not initially claim the section 23 credit when D filed on April 15 and rather claimed this credit for the first time on an amended return filed on December 15. Since D is a U.S. citizen, U.S. national, or qualified alien on December 15 when D first claimed the section 23 credit, D is eligible to receive the refunded portion of the section 23 credit.

(6) *Example 6: Determining the Federal Public Benefit when the taxpayer claims the section 23 tax credit and no other refundable tax credits.* Taxpayer E meets the section 23 requirements for a \$6,120 adoption credit. The refundable amount of this credit, determined under section 23(a)(4), is \$5,120. E claims no other individual refundable tax credits. E's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$648. Therefore, the refunded portion of the section 23 credit is \$4,472. This amount, which is the Federal public benefit, is calculated by subtracting \$648 from \$5,120. If E is an alien who is not a qualified alien, E is not eligible to receive the Federal public benefit of \$4,472 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(7) *Example 7: Determining the Federal public benefit when the taxpayer claims multiple individual refundable income tax credits.* Taxpayer F meets the section 23 requirements for a \$6,120 adoption credit and the section 32 requirements for a \$1,054 earned income credit. The refundable amount of the section 23 credit, determined under section 23(a)(4), is \$5,120. F claims no other individual refundable income tax credits. F's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part

IV of subchapter A of chapter 1 of the Code, is \$648. The sum of F's refundable tax credits claimed under subpart C of part IV of subchapter A of chapter 1 of the Code and subject to PRWORA is \$6,174. The excess of \$6,174 over \$648, which is \$5,526, includes the refunded portion of both the section 23 credit and the section 32 credit and is the Federal public benefit. If F is an alien who is not a qualified alien, F is not eligible to receive the Federal public benefit of \$5,526 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(8) *Example 8: Determining the Federal Public Benefit when the taxpayer claims an individual refundable income tax credit subject to PRWORA and a refundable income tax credit not subject to PRWORA.* Taxpayer G meets the section 23 requirements for a \$6,120 adoption credit. The refundable amount of this credit, determined under section 23(a)(4), is \$5,120. G also has \$250 of tax withheld from wages during the taxable year and is allowed, under section 31, a credit against subtitle A tax equal to that amount. The section 31 credit is an allowable refundable tax credit under subpart C of part IV of subchapter A of chapter 1 of the Code and is not subject to PRWORA. G claims no other individual refundable tax credits. G's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$648. Therefore, the refunded portion of the section 23 credit is \$4,472. This amount, which is the Federal public benefit, is calculated by subtracting \$648 from \$5,120. The \$250 withholding credit is not included in the calculation of a Federal public benefit and can be received as a refund, credited against the taxpayer's unpaid tax liabilities, or offset against specified non-tax liabilities. If G is an alien who is not a qualified alien, G is not eligible to receive the Federal public benefit of \$4,472 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(g) *Applicability date.* This section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 3.** Sections 1.24–2 and 1.24–3 are added to read as follows:

§ 1.24–2 [Reserved]**§ 1.24–3 Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.**

(a) *In general.* Section 24 of the Internal Revenue Code (Code) allows eligible individuals a credit of an amount determined under section 24 (section 24 credit) against the tax imposed by subtitle A of the Code for the taxable year. This section applies Title IV of PRWORA with respect to the refunded portion of the section 24 credit. See 8 U.S.C. 1611(a), (c)(1).

(b) *Definitions.* For the definition of terms used for purposes of this section, see § 1.32–4(b).

(c) *Refunded portion of the section 24 credit—(1) In general.* The refunded portion of the section 24 credit is the portion of the section 24 credit determined under section 24(d) that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code).

(2) *Multiple individual refundable income tax credits claimed.* In the event the taxpayer has also claimed a refundable credit under sections 23, 25A, or 32 of the Code, or another individual refundable income tax credit for which the refunded portion is specified by the Secretary in regulations as subject to PRWORA, the taxpayer must first sum all such refundable credits claimed and then calculate the portion of the sum of these credits that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code). The refunded portion of the section 24 credit is included within this portion.

(d) *Federal public benefit as applied to section 24.* The refunded portion of the section 24 credit is a Federal public benefit. A taxpayer who satisfies the requirements of section 24 is eligible to receive the refunded portion of the section 24 credit, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities, only if the taxpayer is a U.S. citizen, U.S. national, or qualified alien and so declares under penalty of perjury (on the appropriate Federal income tax return, amended tax return, or schedule as required by the IRS).

(e) *Determination for eligibility of refunded portion of section 24 credit.* For purposes of receiving the refunded portion of the section 24 credit, having it credited against the taxpayer's unpaid tax liabilities, or having it offset against

specified non-tax liabilities, a taxpayer's status as a U.S. citizen, U.S. national, or qualified alien is determined on the date the taxpayer files the taxpayer's return for the taxable year that first claims the section 24 credit (without regard to whether the return is deemed by the Code to be filed on another date).

(f) *Examples.* The following examples illustrate the rules of this section. In each example, the taxpayer meets the requirements under title 26 to claim the section 24 credit for the taxable year:

(1) *Example 1: Timely-filed return claiming the tax credit.* The due date of taxpayer A's return is April 15. A files A's return for the taxable year on April 15, claiming the section 24 credit (for one or more qualifying children). On April 15, A is a U.S. citizen, U.S. national, or qualified alien. Because A is a U.S. citizen, U.S. national, or qualified alien on the date A files A's return claiming the section 24 credit for the taxable year, A is eligible to receive the refunded portion of the section 24 credit, have it credited against A's unpaid tax liabilities, or have it offset against A's specified non-tax liabilities.

(2) *Example 2: Claiming the tax credit on an early return.* The due date of taxpayer B's return is April 15. B files B's return on February 1, claiming the section 24 credit (for one or more qualifying children). On February 1, B was a U.S. citizen, U.S. national, or qualified alien. Accordingly, B is eligible to receive the refunded portion of the section 24 credit, have it credited against B's unpaid tax liabilities, or have it offset against B's specified non-tax liabilities.

(3) *Example 3: Claiming the tax credit on a late return.* The due date of taxpayer C's return is April 15. C does not file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, for the taxable year. On November 1, within the period of limitations prescribed in section 6511 of the Code on filing a claim for refund, C files C's return claiming the section 24 credit (for one or more qualifying children). On November 1, C is a U.S. citizen, U.S. national, or qualified alien.

Accordingly, C is eligible to receive the refunded portion of the section 24 credit, have it credited against C's unpaid tax liabilities, or have it offset against C's specified non-tax liabilities.

(4) *Example 4: Claiming the tax credit on an amended return after a status change.* The due date of taxpayer D's return is April 15. D files D's return for the taxable year on April 15, claiming the section 24 credit. However, on April 15, D is not a U.S. citizen, U.S. national, or qualified alien. Accordingly, D is not

eligible to receive the refunded portion of the section 24 credit, or to have it credited against D's unpaid tax liabilities or have it offset against D's specified non-tax liabilities. On December 1, D becomes a U.S. citizen, U.S. national, or qualified alien. On December 15, within the period of limitation prescribed in section 6511 on filing a claim for refund, D files an amended return for the taxable year, updating D's status under PRWORA. Although D is a U.S. citizen, U.S. national, or qualified alien on December 15, D was not a U.S. citizen, U.S. national, or qualified alien when D first claimed the section 24 credit, so D is not eligible to receive the refunded portion of the section 24 credit.

(5) *Example 5: Claiming the tax credit for the first time on an amended return after a status change.* Same facts as paragraph (f)(4) of this section (Example 4), except that D did not initially claim the section 24 credit when D filed on April 15 and rather claimed this credit for the first time on an amended return filed on December 15. Since D is a U.S. citizen, U.S. national, or qualified alien on December 15 when D first claimed the section 24 credit, D is eligible to receive the refunded portion of the section 24 credit.

(6) *Example 6: Determining the Federal Public Benefit when the taxpayer claims the section 24 credit and no other refundable tax credits.* Taxpayer E meets the section 24 requirements for a \$2,200 child tax credit. The refundable amount of this credit, determined under section 24(d), is \$955. E claims no other individual refundable tax credits. E's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$706. Therefore, the refunded portion of the section 24(d) credit is \$249. This amount, which is the Federal public benefit, is calculated by subtracting \$706 from \$955. If E is an alien who is not a qualified alien, E is not eligible to receive the Federal public benefit of \$249 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(7) *Example 7: Determining the Federal public benefit when the taxpayer claims multiple individual refundable income tax credits.* Taxpayer F meets the section 24 requirements for a \$2,200 child tax credit and the section 32 requirements for a \$2,272 earned income credit. The refundable amount of the section 24 credit, determined under section 24(d), is \$955. F claims no other individual refundable tax credits. F's subtitle A tax liability, reduced by

the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$706. The sum of F's refundable tax credits claimed under subpart C of part IV of subchapter A of chapter 1 of the Code and subject to PRWORA is \$3,227. The excess of \$3,227 over \$706, which is \$2,521, includes the refunded portion of both the section 24(d) credit and the section 32 credit and is the Federal public benefit. If F is an alien who is not a qualified alien, F is not eligible to receive the Federal public benefit of \$2,521 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(8) *Example 8: Determining the Federal Public Benefit when the taxpayer claims an individual refundable income tax credit subject to PRWORA and a refundable income tax credit not subject to PRWORA.* Taxpayer G meets the section 24 requirements for a \$2,200 child tax credit. The refundable amount of this credit, determined under section 24(d), is \$955. G also has \$250 of tax withheld from wages during the taxable year and is allowed, under section 31, a credit against subtitle A tax equal to that amount. The section 31 credit is an allowable refundable tax credit under subpart C of part IV of subchapter A of chapter 1 of the Code and is not subject to PRWORA. G claims no other individual refundable tax credits. G's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$706. Therefore, the refunded portion of the section 24 credit is \$249. This amount, which is the Federal public benefit, is calculated by subtracting \$706 from \$955. The \$250 withholding credit is not included in the calculation of a Federal public benefit and can be received as a refund, credited against the taxpayer's unpaid tax liabilities, or offset against specified non-tax liabilities. If G is an alien who is not a qualified alien, G is not eligible to receive the Federal public benefit of \$249 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(g) *Applicability date.* This section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 4.** Sections 1.25A–6 and 1.25A–7 are added to read as follows:

§ 1.25A–6 [Reserved]

§ 1.25A–7 Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(a) *In general.* Section 25A(a)(1) of the Internal Revenue Code (Code) allows eligible individuals a credit of an amount determined under section 25A(b) and (i) (section 25A(a)(1) credit) against the tax imposed by subtitle A of the Code for the taxable year. This section applies Title IV of PRWORA with respect to the refunded portion of the section 25A(a)(1) credit. *See* 8 U.S.C. 1611(a), (c)(1).

(b) *Definitions.* For the definition of terms used for purposes of this section, *see* § 1.32–4(b).

(c) *Refunded portion of the section 25A(a)(1) credit—(1) In general.* The refunded portion of the section 25A(a)(1) credit is the portion of the section 25A(a)(1) credit determined under section 25A(i) that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code).

(2) *Multiple individual refundable income tax credits claimed.* In the event the taxpayer has also claimed a refundable credit under sections 23, 24, or 32 of the Code, or another individual refundable income tax credit for which the refunded portion is specified by the Secretary in regulations as subject to PRWORA, the taxpayer must first sum all such refundable credits claimed, and then calculate the portion of the sum of these credits that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code). The refunded portion of the section 25A(a)(1) credit is included within this portion.

(d) *Federal public benefit as applied to section 25A(a)(1).* The refunded portion of the taxpayer's section 25A(a)(1) credit is a Federal public benefit. A taxpayer who satisfies the requirements of section 25A(a)(1) is eligible to receive the refunded portion of the section 25A(a)(1) credit, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities, only if the taxpayer is a U.S. citizen, U.S. national, or qualified alien and so declares under penalty of perjury (on the appropriate Federal income tax return, amended tax return, or schedule as required by the IRS).

(e) *Determination for eligibility of refunded portion of section 25A(a)(1) credit.* For purposes of receiving the

refunded portion of the section 25A(a)(1) credit, having it credited against the taxpayer's unpaid tax liabilities, or having it offset against specified non-tax liabilities, a taxpayer's status as a U.S. citizen, U.S. national, or qualified alien is determined on the date the taxpayer files the taxpayer's return for the taxable year that first claims the section 25A(a)(1) credit (without regard to whether the return is deemed by the Code to be filed on another date).

(f) *Examples.* The following examples illustrate the rules of this section. In each example below, the taxpayer meets the requirements under title 26 to claim the section 25A(a)(1) credit for the taxable year:

(1) *Example 1: Timely-filed return claiming the tax credit.* The due date of taxpayer A's return is April 15. A files A's return for the taxable year on April 15, claiming the section 25A(a)(1) credit. On April 15, A is a qualified alien within the meaning of 8 U.S.C. 1611(a). Because A was a U.S. citizen, U.S. national, or qualified alien on the date A files A's return claiming the section 25A(a)(1) credit for the taxable year, A is eligible to receive the refunded portion of the section 25A(a)(1) credit, have it credited against A's unpaid tax liabilities, or have it offset against A's specified non-tax liabilities.

(2) *Example 2: Claiming the tax credit on an early return.* The due date of taxpayer B's return is April 15. B files B's return on February 1, claiming the section 25A(a)(1) credit. On February 1, B is a U.S. citizen, U.S. national, or qualified alien. Accordingly, B is eligible to receive the refunded portion of the section 25A(a)(1) credit, have it credited against B's unpaid tax liabilities, or have it offset against B's specified non-tax liabilities.

(3) *Example 3: Claiming the tax credit on a late return.* The due date of taxpayer C's return is April 15. C does not file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, for the taxable year. On November 1, within the period of limitations prescribed in section 6511 of the Code on filing a claim for refund, C files C's return claiming the section 25A(a)(1) credit. On November 1, C is a U.S. citizen, U.S. national, or qualified alien. Accordingly, C is eligible to receive the refunded portion of the section 25A(a)(1) credit, to have it credited against C's unpaid tax liabilities, or have it offset against C's specified non-tax liabilities.

(4) *Example 4: Claiming the tax credit on an amended return after a status change.* The due date of taxpayer D's

return is April 15. D files D's return for the taxable year on April 15 claiming the section 25A(a)(1) credit. However, on April 15, D is not a U.S. citizen, U.S. national, or qualified alien.

Accordingly, D is not eligible to receive the refunded portion of the section 25A(a)(1) credit, or to have it credited against D's unpaid tax liabilities or have it offset against D's specified non-tax liabilities. On December 1, D becomes a U.S. citizen, U.S. national, or qualified alien. On December 15, within the period of limitation prescribed in section 6511 on filing a claim for refund, D files an amended return for the taxable year, updating D's status under PRWORA. Although D is a U.S. citizen, U.S. national, or qualified alien on December 15, D was not a U.S. citizen, U.S. national, or qualified alien when D first claimed the section 25A(a)(1) credit, so D is not eligible to receive the refunded portion of the section 25A(a)(1) credit.

(5) *Example 5: Claiming the tax credit for the first time on an amended return after a status change.* Same facts as paragraph (f)(4) of this section (*Example 4*), except that D did not initially claim the section 25A(a)(1) credit when D filed on April 15 and rather claimed this credit for the first time on an amended return filed on December 15. Since D is a U.S. citizen, U.S. national, or qualified alien on December 15 when D first claimed the section 25A(a)(1) credit, D is eligible to receive the refunded portion of the section 25A(a)(1) credit.

(6) *Example 6: Determining the Federal Public Benefit when the taxpayer claims the section 25A(a)(1) credit and no other refundable tax credits.* Taxpayer E meets the section 25A(a)(1) requirements for a \$2,500 American Opportunity Tax Credit. The refundable amount of this credit, determined under section 25A(i), is \$1,000. E claims no other individual refundable tax credits. E's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$148. Therefore, the refunded portion of the section 25A(a)(1) credit is \$852. This amount, which is the Federal public benefit, is calculated by subtracting \$148 from \$1,000. If E is an alien who is not a qualified alien, E is not eligible to receive the Federal public benefit of \$852 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(7) *Example 7: Determining the Federal public benefit when the taxpayer claims multiple individual refundable income tax credits.* Taxpayer F meets the section 25A(a)(1)

requirements for a \$2,500 American Opportunity Tax Credit and the section 32 requirements for a \$1,110 earned income credit. The refundable amount of the section 25A(a)(1) credit, determined under section 25A(i), is \$1,000. F claims no other individual refundable tax credits. F's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$812. The sum of F's refundable tax credits claimed under subpart C of part IV of subchapter A of chapter 1 of the Code and subject to PRWORA is \$2,110. The excess of \$2,110 over \$812, which is \$1,298, includes the refunded portion of both the section 25A(a)(1) credit and the section 32 credit and is the Federal public benefit. If F is an alien who is not a qualified alien, F is not eligible to receive the Federal public benefit of \$1,298 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(8) *Example 8: Determining the Federal Public Benefit when the taxpayer claims an individual refundable income tax credit subject to PRWORA and a refundable income tax credit not subject to PRWORA.* Taxpayer G meets the section 25A(a)(1) requirements for a \$2,500 American Opportunity Tax Credit. The refundable amount of this credit, determined under section 25A(i), is \$1,000. G also has \$250 of tax withheld from wages during the taxable year and is allowed, under section 31, a credit against subtitle A tax equal to that amount. The section 31 credit is an allowable refundable tax credit under subpart C of part IV of subchapter A of chapter 1 of the Code and is not subject to PRWORA. G claims no other individual refundable tax credits. G's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$148. Therefore, the refunded portion of the section 25A(a)(1) credit is \$852. This amount, which is the Federal public benefit, is calculated by subtracting \$148 from \$1,000. The \$250 withholding credit is not included in the calculation of a Federal public benefit and can be received as a refund, credited against the taxpayer's unpaid tax liabilities, or offset against specified non-tax liabilities. If G is an alien who is not a qualified alien, G is not eligible to receive the Federal public benefit of \$852 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(g) *Applicability date.* This section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 5.** Sections 1.32–1 and 1.32–4 are added to read as follows:

§§ 1.32–1 [Reserved]

§ 1.32–4 Application of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(a) *In general.* Section 32 of the Internal Revenue Code (Code) allows eligible individuals a credit of an amount determined under section 32 (section 32 credit) against the tax imposed by subtitle A of the Code for the taxable year. This section applies Title IV of PRWORA with respect to the refunded portion of the section 32 credit. See 8 U.S.C. 1611(a), (c)(1).

(b) *Definitions.* The following definitions apply for purposes of this section:

(1) *Alien.* The term *alien* has the same meaning as provided in section 101(a) of the Immigration and Nationality Act, Public Law 82–414, 66 Stat. 163, 8 U.S.C. 1101(a)(3).

(2) *Federal public benefit.* The term *Federal public benefit* has the same meaning as provided in section 401 of PRWORA, 8 U.S.C. 1611(c).

(3) *PRWORA.* The term *PRWORA* means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, 110 Stat. 2105, 2260–77, as amended.

(4) *Qualified alien.* The term *qualified alien* has the same meaning as provided in section 431 of PRWORA, 8 U.S.C. 1641(b). In case of married individuals filing a joint return, if one spouse is a U.S. citizen, U.S. national, or qualified alien, then the other spouse will be treated as a qualified alien for this purpose.

(5) *U.S. National.* The term *U.S. national* has the same meaning as provided the term *national of the United States* in section 101(a) of the Immigration and Nationality Act, Public Law 82–414, 66 Stat. 163, 8 U.S.C. 1101(a)(22).

(c) *Refunded portion of the section 32 credit—*(1) *In general.* The refunded portion of the section 32 credit is the portion of the section 32 credit that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code).

(2) *Multiple individual refundable income tax credits claimed.* In the event the taxpayer has also claimed a refundable credit under sections 23, 24, or 25A of the Code, or another

refundable income tax credit for which the refunded portion is specified by the Secretary in regulations as subject to PRWORA, the taxpayer must first sum all such refundable credits claimed, and then calculate the portion of the sum of these credits that exceeds the tax imposed on the taxpayer by subtitle A of the Code (reduced by credits allowable under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code). The refunded portion of the section 32 credit is included within this portion.

(d) *Federal public benefit as applied to section 32.* The refunded portion of the taxpayer's section 32 credit is a Federal public benefit. A taxpayer who satisfies the requirements of section 32 is eligible to receive the refunded portion of the section 32 credit, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities, only if the taxpayer is a U.S. citizen, U.S. national, or qualified alien and so declares under penalty of perjury (on the appropriate Federal income tax return, amended tax return, or schedule as required by the IRS).

(e) *Determination for eligibility of the refunded portion of section 32 credit.* For purposes of receiving the refunded portion of the section 32 credit, having it credited against the taxpayer's unpaid tax liabilities, or having it offset against specified non-tax liabilities, a taxpayer's status as a U.S. citizen, U.S. national, or qualified alien is determined on the date the taxpayer files the taxpayer's return for the taxable year that first claims the section 32 credit (without regard to whether the return is deemed by the Code to be filed on another date).

(f) *Examples.* The following examples illustrate the rules of this section. In each example below, the taxpayer meets the requirements under the Code to claim the section 32 credit for the taxable year:

(1) *Example 1: Timely-filed return claiming the tax credit.* The due date of taxpayer A's return is April 15. A files A's return for the taxable year on April 15, claiming the section 32 credit. On April 15, A is a U.S. citizen, U.S. national, or qualified alien. Because A was a U.S. citizen, U.S. national, or qualified alien on the date of A files A's return claiming the section 32 credit for the taxable year, A is eligible to receive the refunded portion of the section 32 credit, have it credited against A's unpaid tax liabilities, or have it offset against A's specified non-tax liabilities.

(2) *Example 2: Claiming the tax credit on an early return.* The due date of taxpayer B's return is April 15. B files B's return on February 1, claiming the

section 32 credit. On February 1, B is a U.S. citizen, U.S. national, or qualified alien. Accordingly, B is eligible to receive the refunded portion of the section 32 credit, have it credited against B's unpaid tax liabilities, or have it offset against B's specified non-tax liabilities.

(3) *Example 3: Claiming the tax credit on a late return.* The due date of taxpayer C's return is April 15. C does not file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, for the taxable year. On November 1, within the period of limitations prescribed in section 6511 of the Code on filing a claim for refund, C files C's return claiming the section 32 credit. On November 1, C is a U.S. citizen, U.S. national, or qualified alien.

Accordingly, C is eligible to receive the refunded portion of the section 32 credit, to have it credited against C's unpaid tax liabilities, or have it offset against C's specified non-tax liabilities.

(4) *Example 4: Claiming the tax credit on an amended return after a status change.* The due date of taxpayer D's return is April 15. D files D's return for the taxable year on April 15, claiming the section 32 credit. However, on April 15, D is not U.S. citizen, U.S. national, or a qualified alien. Accordingly, D is not eligible to receive the refunded portion of the section 32 credit, or to have it credited against D's unpaid tax liabilities or have it offset against D's specified non-tax liabilities. On December 1, D becomes a U.S. citizen, U.S. national, or qualified alien. On December 15, within the period of limitation prescribed in section 6511 on filing a claim for refund, D files an amended return for the taxable year, updating D's status under PRWORA. Although D is a U.S. citizen, U.S. national, or qualified alien on December 15, D was not a U.S. citizen, U.S. national, or qualified alien when D first claimed the section 32 credit, so D is not eligible to receive the refunded portion of the section 32 credit.

(5) *Example 5: Claiming the tax credit for the first time on an amended return after a status change.* Same facts as paragraph (f)(4) of this section (Example 4), except that D did not initially claim the section 32 credit when D filed on April 15 and rather claimed this credit for the first time on an amended return filed on December 15. Since D is a U.S. citizen, U.S. national, or qualified alien on December 15 when D first claimed the section 32 credit, D is eligible to receive the refunded portion of the section 32 credit.

(6) *Example 6: Determining the Federal Public Benefit when the*

taxpayer claims the section 32 credit and no other refundable tax credits.

Taxpayer E meets the section 32 requirements for a \$2,272 earned income credit. E claims no other individual refundable tax credits. E's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$1,451. Therefore, the refunded portion of the section 32 credit is \$821. This amount, which is the Federal public benefit, is calculated by subtracting \$1,451 from \$2,272. If E is an alien who is not a qualified alien, E is not eligible to receive the Federal public benefit of \$821 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(7) *Example 7: Determining the Federal public benefit when the taxpayer claims multiple individual refundable income tax credits.* Taxpayer F meets the section 32 requirements for a \$2,272 earned income credit and the section 24 requirements for a \$2,200 child tax credit. The refundable amount of the section 24 credit, determined under section 24(d), is \$1,455. F claims no other individual refundable tax credits. F's subtitle A tax liability, reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$706. The sum of F's refundable tax credits claimed under subpart C of part IV of subchapter A of chapter 1 of the Code and subject to PRWORA is \$3,727. The excess of \$3,727 over \$706, which is \$3,021, includes the refunded portion of both the section 32 credit and the section 24 credit and is the Federal public benefit. If F is an alien who is not a qualified alien, F is not eligible to receive the Federal public benefit of \$3,021 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(8) *Example 8: Determining the Federal Public Benefit when the taxpayer claims an individual refundable income tax credit subject to PRWORA and a refundable income tax credit not subject to PRWORA.* Taxpayer G meets the section 32 requirements for a \$2,272 earned income credit. G also has \$250 of tax withheld from wages during the taxable year and is allowed, under section 31, a credit against subtitle A tax equal to that amount. The section 31 credit is an allowable refundable tax credit under subpart C of part IV of subchapter A of chapter 1 of the Code and is not subject to PRWORA. G claims no other individual refundable tax credits. G's subtitle A tax liability,

reduced by the credits allowed under subparts A, B, D, and G of part IV of subchapter A of chapter 1 of the Code, is \$1,451. Therefore, the refunded portion of the section 32 credit is \$821. This amount, which is the Federal public benefit, is calculated by subtracting \$1,451 from \$2,272. The \$250 withholding credit is not included in the calculation of a Federal public benefit and can be received as a refund, credited against the taxpayer's unpaid tax liabilities, or offset against specified non-tax liabilities. If G is an alien who is not a qualified alien, G is not eligible to receive the Federal public benefit of \$821 as a refund, have it credited against the taxpayer's unpaid tax liabilities, or have it offset against specified non-tax liabilities.

(g) *Applicability date.* This section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026–16985 Filed 8–19–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AD66

Special Areas; Roadless Area Conservation

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule; request for public comment.

SUMMARY: The U.S. Department of Agriculture (USDA or Department) is proposing to rescind the 2001 Roadless Area Conservation Rule (2001 Roadless Rule), which established broad prohibitions on road construction, road reconstruction, and timber harvesting within inventoried roadless areas on National Forest System lands. The intent of this proposed action is to reduce regulatory burden and return decisionmaking for the management of inventoried roadless areas to the land management planning process at the individual national forest level. Rescission of the national-level prohibitions provides responsible officials with flexibility to better guide management of National Forest System lands and respond to changing local resource conditions. The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by

the National Forest Management Act of 1976, and the associated land management planning processes and plans are the appropriate and effective mechanisms to guide sustainable, integrated management of the resources within the plan areas in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas. The USDA invites public comment on this proposed rule, the associated draft environmental impact statement, and cost benefit analysis, which are being published simultaneously.

DATES: Comments must be received in writing by September 21, 2026.

ADDRESSES: Comments, identified by RIN 0596–AD66, should be sent via one of the following methods:

- *Electronically (preferred):* Through the Federal eRulemaking Portal, <https://www.regulations.gov>, identified by docket number FS–2025–0001 or RIN 0596–AD66. Follow the instructions for sending comments; or
- *Mail:* Hardcopy letters must be submitted to the Director, Ecosystem Management Coordination, 201 14th Street SW, Mailstop 1108, Washington, DC 20250–1124.

Comments should be confined to issues pertinent to the proposed rule, should explain the reasons for any recommended changes, and should reference the specific section and wording being addressed, where possible. All timely comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. Comments may be viewed on the Federal eRulemaking Portal at <https://www.regulations.gov>. In the search box, enter “RIN 0596–AD66” and click the “Search” button. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available for public viewing. Please note that if your comment includes a standard confidentiality disclaimer—like the automatic notices added to some emails—we will still treat your comment as public and may make it available for anyone to read. A summary of this rule may be found through the Federal eRulemaking Portal at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joshua White, Acting Director,
Ecosystem Management Coordination,

at the following phone number: 202–205–0650. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service and provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 2001, the Forest Service promulgated the Roadless Area Conservation Rule (66 FR 3244) at 36 CFR 294 Subpart B to provide long-term protection for 58.5 million acres of inventoried roadless areas across the National Forest System. The 2001 Roadless Rule generally prohibits road construction, road reconstruction, and timber harvesting in these areas, subject to limited exceptions.

Since its promulgation, the 2001 Roadless Rule has been the subject of extensive and complex litigation. The rule has been enjoined and reinstated on multiple occasions. Notably, a 2006 ruling by the U.S. District Court for the Northern District of California set aside a 2005 replacement rule (the State Petitions Rule) and reinstated the 2001 Roadless Rule. The U.S. Court of Appeals for the Ninth Circuit affirmed this decision in *California ex rel. Lockyer v. U.S. Department of Agriculture*, 575 F.3d 999 (9th Cir. 2009). Consequently, 36 CFR 294 Subpart B, as it was originally promulgated, is the version currently in effect, although the text published in the Code of Federal Regulations has not been amended to remove the State Petitions Rule to reflect this judicial history. In the intervening years, state-specific rules were developed for Idaho (36 CFR 294 Subpart C) and Colorado (36 CFR 294 Subpart D) in response to petitions received under the Administrative Procedure Act at 5 U.S.C. 553(e) and Department regulations at 7 CFR 1.28, and these state-specific rules remain in effect.

Purpose and Need for Action

The Department is proposing this rule rescission to reduce regulatory burden and return land management decisionmaking for inventoried roadless areas to local Forest Service officials. In 2001, the Roadless Area Conservation Rule established a single, nationwide set of prohibitions intended to provide lasting protection for inventoried roadless areas within the National Forest System in the context of multiple-use management. Today, the Department believes increased management flexibility in the administration of these lands is needed

to better meet the multiple-use mission and provide benefits to the American people. This approach prioritizes decisionmaking by local Forest Service officials informed by Tribes, State, and local communities. As explained below, there is a need to increase local management flexibility and, where necessary, allow for active management to respond to changing and localized conditions, such as increasing wildfire risk, the spread of insect and disease infestations, and the need for community protection in the wildland-urban interface.

Under the current Administration, the Department has refocused policies, programs, and resources on increasing rural economic opportunity, decreasing Federal regulation, and streamlining Federal Government services. Specifically, this deregulatory action advances the policy objectives of Executive Order 14192, *Unleashing Prosperity Through Deregulation*, to alleviate unnecessary regulatory burdens. In Executive Order 14225, *Immediate Expansion of American Timber Production*, the President declared that “the United States has an abundance of timber resources that are more than adequate to meet our domestic timber production needs, but heavy-handed Federal policies have prevented full utilization of these resources.” In Executive Order 14154, *Unleashing American Energy*, the President likewise declared that “it is in the national interest to unleash America’s affordable and reliable energy and natural resources.” In Executive Order 14153, *Unleashing Alaska’s Extraordinary Resource Potential*, the President declared that “it is the policy of the United States to fully avail itself of Alaska’s vast lands and resources” and “maximize the development and production of the natural resources located on both Federal and State lands within Alaska.” Consistent with this policy, Executive Order 14153 directed the Secretary of Agriculture to reinstate the 2020 Alaska Roadless Rule that exempted the Tongass National Forest in Alaska from the 2001 Roadless Rule. This proposed rescission does not mandate timber cutting or road construction but would relieve regulatory burden relative to management of National Forest System lands.

Rationale for the Proposal

As resource conditions and national policy have evolved, the Department has determined that a single, national blanket approach to the management of inventoried roadless areas taken in the 2001 Roadless Rule constrains

responsible officials from exercising the timely, place-based discretion needed to meet the Forest Service’s multiple-use mission. In addition, evolving national priorities and changed conditions have required more active management approaches. The 2001 Roadless Rule limited the Forest Service’s ability to conduct vegetation management within inventoried roadless areas and has contributed to the lack of active management of the national forests, which in turn has contributed to challenges in addressing forest health concerns. The 2001 Roadless Rule prohibited cutting, sale, or removal of timber—except when one of a limited set of exceptions applied. Per the Rule’s text, the use of these exceptions was “expected to be infrequent” (36 CFR 294.13(b) (2001)). In addition, while exceptions were available, their use was limited and inconsistent due to associated reviews and approvals to demonstrate consistency with the 2001 Roadless Rule. Furthermore, the limited number of roads within inventoried roadless areas and the inability to reconstruct or build new roads to provide the needed access further limit management flexibility. Taken together, the prohibitions have removed important management tools for key areas where there are needs or opportunities to address overgrown and fuel-loaded national forests.

This proposed rescission is intended to return primary authority for determining the appropriate management of inventoried roadless areas at the local level to the land management planning process mandated by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*). The National Forest Management Act requires that plans shall assure multiple use and sustained yield of National Forest System products and services and include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness (16 U.S.C. 1604(e)(1)). The National Forest Management Act establishes the requirement for the Forest Service to develop land management plans, including direction in 16 U.S.C. 1604(a) and (b) for interdisciplinary planning and consideration of landscape-level conditions. These statutory requirements are implemented through the Agency’s land management planning framework, which require consideration of the plan area in the context of the broader landscape and requires that each plan reflects the unit’s expected distinct roles and contributions to the local area, region,

and Nation. The land management planning framework ensures each land management plan addresses similar conservation objectives as the 2001 Roadless Rule was intended to address, such as ecological integrity (including air, soil, and water), sources of public drinking water, diversity of plant and animal communities (including federally listed threatened and endangered species), sustainable recreation, scenic character, and protection of cultural and historic resources. At the same time, this planning approach allows for place-based, collaborative decisionmaking that is responsive to specific on-the-ground resource conditions, rather than a “one-size-fits-all” national mandate. While national-level considerations are important, land management planning efforts by local decisionmakers at the national forest or regional scale are best positioned to make decisions about inventoried roadless areas because they understand the unique ecological, economic, and social needs of their communities.

In 2001, USDA and the Forest Service asserted that a national prohibition was the best means to reduce conflict and potential for incremental impacts to the ecological and social values of these areas. Since then, conditions across National Forest System lands have changed substantially, especially in the Western United States where many inventoried roadless areas are located, with increasing drought, extreme temperatures, wildfire frequency and severity, and insect and disease outbreaks. Alongside these landscape changes, the Agency’s land management planning framework has become more adaptive, science-based, efficient, and effective. These changes, combined with evolving Department priorities for active forest management and deregulation, diminish the basis for a national prohibition. The proposed rule would return land management decisionmaking for inventoried roadless areas to local Forest Service officials—giving them the flexibility to address conservation and resource issues informed by input from stakeholders, communities, and state, local, and tribal governments. Local decisionmaking would remain subject to the substantive requirements of the Endangered Species Act, National Forest Management Act, and other related laws and regulations.

The Secretary of Agriculture has broad authority under statutes such as the Organic Administration Act of 1897 and the Multiple-Use Sustained-Yield Act of 1960 to manage the National Forest System for a variety of uses. Just as the establishment of the 2001

Roadless Rule was discretionary, this proposed rule is an exercise of discretion to determine the most appropriate process for balancing competing values and uses in inventoried roadless areas within that legal framework.

Scope of the Proposed Rule

The USDA proposes to rescind the 2001 Roadless Area Conservation Rule by removing and reserving 36 CFR part 294, Subpart B. The state-specific roadless rules for Idaho (36 CFR part 294, Subpart C) and Colorado (36 CFR part 294, Subpart D) will not be affected by this proposed rule and will remain in effect.

If this proposed rule is finalized, the management direction for inventoried roadless areas would continue to be governed by the applicable land management plans for each unit of the National Forest System. This action does not authorize any specific ground-disturbing projects. Nor does it require or compel the amendment or revision of any land management plan. When this rule is implemented, the governing land management plan could still include restrictions on road construction, road reconstruction, and timber harvesting in roadless areas within the management unit, as well as management direction that influences when, where and how these activities may be carried out. Further, any future proposals for timber harvesting or road construction within an inventoried roadless area would require site-specific compliance with the National Environmental Policy Act (NEPA) and other applicable laws, and would have to be consistent with the governing land management plan. Future projects in inventoried roadless areas will be proposed, reviewed, and approved by local Forest Service officials.

Any State, Tribe, or other interested entity seeking to establish roadless management provisions tailored to specific geographic or resource conditions may submit a petition for rulemaking under the Administrative Procedure Act (5 U.S.C. 553(e)) and USDA regulations at 7 CFR 1.28. The Department will consider such petitions consistent with applicable law and policy. Federally recognized Tribes may separately submit requests for related roadless management provisions under government-to-government consultation. Records of such consultation will be retained and may be referenced in future rulemaking. This process ensures that requests for new or modified roadless management approaches are evaluated transparently

and in accordance with established rulemaking procedures.

Summary of Potential Impacts

While the Department believes the rescission of the 2001 Roadless Rule is an important step towards reducing regulatory burden and returning decisionmaking to local Forest Service officials, USDA acknowledges the near-term effects of the rescission would be bounded by existing land management plan direction, as well as operability, budget, and legal constraints. Where plans allow, rescission of the 2001 Roadless Rule could increase management flexibility for access (roads), vegetation management, targeted fuels treatments, and access for minerals or energy uses. However, management opportunities would be modest and localized. A discussion of the potential environmental and economic impacts is described in the draft Environmental Impact Statement and cost benefit analysis. A summary of key considerations follows:

- **Roads.** Budget, conservation objectives, and physical resource limits are expected to constrain new permanent road construction. Following transportation planning, roads could be constructed for a variety of administrative or multiple use benefits, though timber harvest or other vegetation management activity would likely create the greatest need for new roads. Any near-term permanent road additions would be anticipated to occur on lands where current land management plans allow them (but where the 2001 Roadless Rule currently prohibits them)—totaling about 18.2 million acres, or 45.5 percent of the potentially affected environment. Temporary roads, if proposed, are more likely to occur on lands within 0.5 miles of existing roads—totaling about 11.3 million acres, or 28.3 percent of the potentially affected environment. Permanent road construction within the same 0.5-mile band is less likely because of costs, terrain, and maintenance obligations.

- **Timber.** Rescinding the 2001 Roadless Rule would expand opportunities for active forest management on lands where both operability and plan allowances are met—totaling about 4.8 million acres, or 16 percent of forested areas in potentially affected inventoried roadless areas. The management flexibility or opportunities in these areas could provide resulting benefits, aligned with land management plan desired conditions, such as improving habitat or reducing wildfire risk to resources. In addition, if annual timber harvest in all

those areas occurred (which is unlikely due to budgets, unforeseen limits on operability, and market conditions), it could result in an estimated 5 to 10 percent increase in total annual National Forest System sawtimber harvest and \$5.2 to \$11.4 million per year in revenue to the Treasury and Forest Service and \$4.6 to \$10.6 million per year in revenue to the timber industry. However, given the small number of operable areas for timber harvest in roadless areas and the large number of variables that may occur, it is difficult to predict the potential impact rule rescission may have on timber harvest. Increased planning flexibility may improve timber sale design (such as more direct haul routes and access to stands that appraise positively). This could lower delivered costs and make some sales more feasible under current plan goals. However, any efficiency gains are expected to be incremental and limited by road costs, maintenance funding gaps, and the \$6.9 billion deferred maintenance backlog for roads and bridges.

- **Wildfire risk.** While greater public access can increase human-caused ignition potential in some locations, the 2001 Roadless Rule's prohibitions have limited mechanical thinning options and some fire control tactics in inventoried roadless areas. Substantial acreage within potentially affected inventoried roadless areas has a relatively high likelihood of burning under high intensity conditions that are difficult to manage or could pose a risk to communities, infrastructure, or drinking water sources. Rescinding the 2001 Roadless Rule would increase opportunities for hazardous fuel treatments in the wildland-urban interface, where 9.8 million acres (or 24 percent) overlap with inventoried roadless areas, and, where justified, would allow strategically placed roads that can improve suppression effectiveness near communities and critical infrastructure.

- **Recreation.** U.S. National Forests—including inventoried roadless areas—support a wide range of recreation and tourism activities. These lands are used by outfitters, guides, tour operators, visitors, and the general public for recreational fishing, hunting, hiking, bicycling, wildlife viewing, boating, and other recreation and tourism. Under the proposed rule, there could be temporary impacts to recreation and related industry opportunities, including noise, visible infrastructure, and temporary closures. In the longer term, developed and road-based recreation could expand through development of some new permanent roads, though this expansion

is uncertain and anticipated to be limited due to land management plans, budget, and resources. This expansion could increase road-based recreation and accessibility improvements but would result in tradeoffs with opportunities for quiet, remote and self-reliant recreation and may increase user conflicts and result in lost economic benefits. Losses in economic benefit to recreationists are most likely to be associated with the operable areas of current IRAs and could be an estimated \$6.1 million annually.

- **Commercial Fishing and Seafood Processing.** Given the small amount of operable areas for timber harvest in roadless areas, the proposed rule is not expected to have a significant change to the commercial fishing or fish-processing industries. Any changes in the long term to land management plans could result in effects to commercial fisheries if resource conditions are affected.

- **Minerals and Energy.** Locatable mineral exploration and development is generally accompanied by an access right, and therefore, there are no anticipated changes based on the proposed rule. Under this proposed rule, there is additional flexibility for potential future leasable mineral development (primarily oil, gas, and coal) opportunities and it is reasonably foreseeable that some development could occur in potentially affected inventoried roadless areas, resulting in associated costs and benefits. However, it is anticipated that there would be no net change, relative to baseline conditions, in domestic leasable production under the proposed rule for domestic oil, gas, and coal production.

Although the estimated annual economic effects span a wide range, the additional impacts associated with the proposed rule could exceed \$100 million. Some industries, including recreation and tourism, could experience trade-offs as a result of the proposed rule. The cost benefit analysis discusses potential industry impacts in more detail for timber, recreation (including tourism), commercial fishing and seafood processing, minerals and energy. The Department is interested in comments on the baselines and range of impacts expected from the proposed rule across relevant industries, and additional data that demonstrates whether these industries would experience direct effects or distributional effects or both, with a description of the data and analytic methods used to determine these effects.

Local responsible officials (forest supervisors and regional foresters) would continue to have discretion to

amend or revise a land management plan. If the proposed rule were finalized, subsequent land management plan amendments and revisions could increase the area where timber harvest and road construction would be allowed, resulting in additional management opportunities or impacts beyond those summarized above. While changes to land management plans are beyond the scope of the proposed rule, USDA nevertheless requests comment and estimates on baselines and range of impacts considering subsequent potential changes in land management plans.

Public Involvement

On August 29, 2025, the USDA published in the **Federal Register** a notice of intent (90 FR 42179) to prepare an environmental impact statement and rulemaking concerning the management of inventoried roadless areas on National Forest System lands. During a 21-day public comment period, the USDA received more than 220,000 comment letters on behalf of over 625,000 individuals and organizations. Public comments received during the comment period helped inform the development of alternatives to the proposed rule and analysis of potential environmental impacts in the draft environmental impact statement.

The USDA invites comments on all aspects of this rulemaking, including the alternatives analyzed in the draft environmental impact statement, the expected economic costs and benefits, any reliance interests in the current rule that could be affected by this proposal, and any additional costs and benefits. Comments received during the comment period on the proposed rule and draft environmental impact statement will be considered in developing a final rule and supporting analyses.

Consistent with the Alaska National Interest Lands Conservation Act (ANILCA) Section 810, the Forest Service will hold public subsistence hearings to evaluate potential impacts of the proposed rule on subsistence uses in Alaska. These hearings provide an opportunity for affected communities and individuals to share input on how rescinding the 2001 Roadless Rule may influence subsistence activities, including access to resources and traditional practices. Details regarding the dates, times, and locations of these hearings will be announced in a subsequent notice and posted on the Forest Service's website at <https://www.fs.usda.gov/managing-land/planning/roadless>. Interested parties may also contact the Forest Service for additional information or to request

accommodations for participation. The Forest Service encourages all interested individuals, Tribes, and organizations to attend these hearings and provide input. Comments received during the hearings will be considered in the development of the final rule and supporting analyses.

Petition for Rulemaking

During the public comment period on the notice of intent to prepare an environmental impact statement for this rulemaking, the Department received a petition for rulemaking from a resident of the State of Alaska, requesting review and potential amendment or repeal of regulations implementing the national Roadless Area Conservation Rule as applied to Alaska. The petitioner asserts that existing Federal statutes guarantee access rights to timber supply and for road construction that are inconsistent with a nationwide prohibition on road building. The petition further requests that any future roadless regulation recognize statutory rights of access for statehood lands, valid existing rights, mining claims, and inholdings, and exclude areas where roads already exist. The petition is included in the project record, and the Department is considering these issues as part of this rulemaking.

Regulatory Certifications

Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. This proposed rule has been determined to be economically significant under E.O. 12866 section 3(f)(1). E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the proposed rule consistent with E.O. 13563.

National Environmental Policy Act

On August 29, 2025, the USDA published in the **Federal Register** a notice of intent (90 FR 42179) to prepare an environmental impact statement and rulemaking concerning the management of inventoried roadless areas on National Forest System lands. The comments received helped inform the development of alternatives in the draft

environmental impact statement to the proposed rule.

Accompanying the proposed rule, the USDA has prepared a draft environmental impact statement that discloses the potential environmental impacts that may result from the proposed rule and its alternatives. All documents, including the proposed rule and other supporting information, may be found at <https://www.regulations.gov>, under docket number FS–2025–0001, or on the following website: <https://www.fs.usda.gov/managing-land/planning/roadless>.

This draft environmental impact statement is also being published to facilitate comments on the proposal and alternatives in accordance with Department regulations (7 CFR 1b.7(n)). The USDA invites written electronic comments on the proposed rule and draft environmental impact statement per the instructions provided in the **ADDRESSES** section above. Substantive comments received will be published electronically and will be considered in developing the final environmental impact statement and final rule.

Regulatory Flexibility Act

This proposed rule has been considered in light of E.O. 13272 that addresses the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended, which requires agencies to prepare and make available to the public a regulatory flexibility analysis that describes the economic effect of a proposed or final rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Furthermore, section 605 of the Regulatory Flexibility Act allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. This proposed rule is not expected to impose any direct requirements or compliance obligations on small entities. Further, this rule is intended to remove a redundant layer of regulation. The Department nevertheless has considered the effects of the proposed rule on small entities and prepared a regulatory flexibility analysis. The analysis can be found at <https://www.regulations.gov>, under docket number FS–2025–0001, or on the following website: <https://www.fs.usda.gov/managing-land/planning/roadless>. The Forest Service is directly affected by this rulemaking and is not a small entity. The proposed rule imposes no costs or recordkeeping

requirements on small entities; nor does it seek to impose any direct regulatory restrictions on any small entities. A number of small and large entities may experience greater flexibility under the proposed rule or otherwise benefit from it. In consideration of the facts and analysis set forth in the regulatory flexibility analysis prepared by the Forest Service, the undersigned has determined and certified by signature on this document that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Federalism

The Department has considered this proposed rule under the requirements of E.O. 13132, *Federalism*. The Department has determined that the proposed rule conforms with the federalism principles set out in this E.O., would not impose compliance costs on the States, and would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that this proposed rule would not have federalism implications.

Consultation and Coordination With Indian Tribal Governments

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. While Section I(B) of the Office of Management and Budget memorandum on *Streamlining the Review of Deregulatory Actions* (M–25–36, October 21, 2025) states that rescinding a regulation does not inherently require consultation, the Department has determined that removing and reserving 36 CFR part 294 Subpart B would have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes and therefore warrants consultation under E.O. 13175. Accordingly, the U.S. Forest Service will coordinate with the

Department's Office of Tribal Relations to ensure meaningful consultation occurs, and the remainder of this section summarizes Tribal engagements and input received to date.

Tribal Consultation and Collaboration

On July 22, 2025, the Forest Service notified Tribes and Alaska Native Corporations of the opportunity to consult on the rulemaking to rescind the 2001 Roadless Rule, with a summary analysis of proposed changes and an invitation to a Tribal forum engagement session. This information was also emailed to Regional Foresters on July 25, 2025. The Forest Service Office of Tribal Relations held a Tribal forum engagement session on August 5, 2025.

To date, the Forest Service received 64 requests for consultation, 34 consultations have been scheduled, and 29 consultations have been held. Tribal consultations were held either in person or virtually with local or regional Forest Service line officers serving as consulting officials. Some Tribes submitted letters in lieu of, or in addition to, consultations. Consultations will be ongoing throughout the rulemaking process, and a final Tribal Impact Summary Statement will be included with the final rule. In addition, many Tribes submitted comment letters during the public comment period on the notice of intent published on August 29, 2025. The comment letters received from Tribes or Tribal organizations during the comment period (via hardcopy or the [regulations.gov](https://www.regulations.gov) comment portal) were included in the public comment summary and considered in the development of the draft environmental impact statement and proposed rule. The summary below includes the input received to date through the consultation process.

Tribal Input Received

The majority sentiment among Tribal governments consulted is opposition to the proposed rescission of the 2001 Roadless Rule, viewing it as a threat to inherent rights, Tribal sovereignty, cultural survival, and the ecological health of ancestral homelands. Support for the proposed rescission of the 2001 Roadless Rule was received from an Alaska Native Corporation, which asserted that the national rule limits their economic and legal rights to access and develop lands. According to the majority Tribal sentiment, a central procedural concern is the Federal Government's failure to fulfill its trust responsibilities by proceeding without adequate government-to-government consultation. Tribes consistently argued that removing this layer of national

protection shifts the unsustainable burden of project-level review onto their limited resources and exposes previously untouched areas to industrial activity, mining interests, and destructive recreational access, all of which threaten sacred sites, traditional gathering areas, water quality, and subsistence resources. Proposed alternatives that were frequently requested included retaining the existing rule (“No Action”) or establishing new co-management structures, such as a “Strengthened Roadless Rule Alternative” or a “Traditional Homelands Conservation Rule” that integrates Traditional Ecological Knowledge, Tribal co-stewardship, and Tribal consent for major decisions. For ancestral lands in Alaska, representatives stressed the need for a comprehensive ANILCA Section 810 subsistence analysis prior to any decision and noted the global climate significance of the forest as a critical carbon sink.

A complete Tribal summary impact statement may be found at <https://www.regulations.gov>, under docket number FS–2025–0001, or on the following website: <https://www.fs.usda.gov/managing-land/planning/roadless>.

Family Policymaking Assessment

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for a rule that may affect family well-being. The proposed rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not necessary to prepare a Family Policymaking Assessment for the proposed rule.

Takings Implications

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*. The Department has determined that the proposed rule would not pose the risk of a taking of private property.

Energy Effects

The Department has reviewed the proposed rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the proposed rule would not constitute a significant energy action as defined in E.O. 13211.

Civil Justice Reform

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform*. Upon publication of the proposed rule, (1) all State and local laws and regulations that conflict with the proposed rule or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of the proposed rule on State, local, and Tribal governments and the private sector. The proposed rule would not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any 1 year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required.

Paperwork Reduction Act

The proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 294

National forests, Recreation areas, Roadless area management.

For the reasons set forth in the preamble, the Department of Agriculture proposes to amend part 294 of title 36 of the Code of Federal Regulations as follows:

PART 294—SPECIAL AREAS

- 1. The authority citation for part 294 continues to read as follows:

Authority: 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

Subpart B—[Removed and Reserved]

- 2. Remove and reserve subpart B, consisting of §§ 294.10 through 294.18.

Stephen Alexander Vaden,

Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2026–16965 Filed 8–19–26; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2026–0332; FRL–13201–06–OCSPP]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities—June 2026

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency’s receipt of and solicits public comment on initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities. The Agency is providing this notice in accordance with the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA uses the month and year in the title to identify when the Agency compiled the petitions identified in this notice of filing Unit II. of this document identifies certain petitions received in 2024, 2025, and 2026 that are currently being evaluated by EPA, along with information about each petition, including who submitted the petition and the requested action.

DATES: Comments must be received on or before September 21, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest identified in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting on and visiting the docket, along with more information about dockets generally, are available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566–1400; email address: BPPDFRNotices@epa.gov.

- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566–1030; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary***A. Does this action apply to me?*

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA regulations for residues of pesticide chemicals in or on various food commodities are established under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), requires EPA to publish a notice of receipt of these petitions in the **Federal Register** and provide an opportunity for public comment on the requests.

C. What action is the Agency taking?

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the receipt of pesticide petitions filed under FFDCA section 408 that request the establishment or modification of regulations for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comments on the requests before responding to the petitioner. Pursuant to 40 CFR 180.7(f), a summary of the petition identified in this document, prepared by the petitioner, is included in a docket. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2), and 40 CFR 180.7(b); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Based upon review of the data supporting these petitions and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA may establish a final tolerance or tolerance exemption that "may vary from that sought by the petitioner." For example, EPA may determine that it is appropriate to vary the commodity name for consistency with EPA's Food and Feed Commodity Vocabulary, which is located here <https://www.epa.gov/pesticide-tolerances/food-and-feed-commodity-vocabulary>, or vary the tolerance level based on available data, harmonization interests,

or the trailing zeros policy. In addition, when evaluating a petition's requests for a tolerance or exemption, EPA will consider how use of the pesticide on a crop for which a tolerance is requested may result in residues in or on commodities related to that requested commodity (e.g., whether use on sugar beets for which a tolerance was requested on sugar beet root also requires a tolerance on sugar beet tops or whether use on a cereal grain for which a grain tolerance was requested also requires a tolerance on related animal feed commodities derived from that cereal grain). Public commenters should consider the possibility of such revisions in preparing comments on these petitions.

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/epa-dockets>.

II. Petitions Received

This unit provides the following information about the petitions:

- The Pesticide Petition (PP) Identification (IN) number;
- EPA docket ID number for the petition;
- Information about the petition (*i.e.*, name of the petitioner, name of the pesticide chemical residue and the commodities for which a tolerance or exemption is sought);
- The analytical method available to detect and measure the pesticide chemical residue or the petitioner's statement about why such a method is not needed; and
- The division to contact for that petition.

Additional information on the petitions may be obtained through the petition summaries that were prepared by the petitioners pursuant to 21 U.S.C. 346a(d)(2)(A)(i)(I) and 40 CFR 180.7(b)(1), which are included in the

docket for the petition as identified in this unit.

- *PP 4F9101.* (EPA-HQ-OPP-2025-0042). This posting is amending the previous NOF dated September 29, 2025, by announcing commodities that were not included in the previous NOF. Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide thiabendazole in or on cotton, gin byproducts, at 0.01 parts per million (ppm). The GRM040.01A method is used to measure and evaluate the chemical thiabendazole. *Contact:* RD.

- *PP 5E9210.* (EPA-HQ-OPP-2026-3599). IR-4 Project, 1730 Varsity Drive, Suite 210, Raleigh, NC 27606, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide fenpropathrin in or on the raw agricultural commodities of barley subgroup 15-22B at 0.04 ppm; *brassica*, leafy greens, subgroup 4-16B at 15 ppm; cherry subgroup 12-12A at 5 ppm; cottonseed subgroup 20C at 1 ppm; kohlrabi at 3 ppm; nut, tree, group 14-12 at 0.1 ppm; peach subgroup 12-12B at 1.4 ppm; plum subgroup 12-12C at 1.4 ppm; tropical and subtropical, small fruit, edible peel, subgroup 23A at 5 ppm; tropical and subtropical, small fruit, inedible peel, subgroup 24A at 7 ppm; turnip, roots at 1.5 ppm; vegetable, *brassica*, head and stem, group 5-16 at 3 ppm; vegetable, legume, pea, edible podded, subgroup 6-22B at 0.02 ppm; vegetable, legume, pea, succulent shelled, subgroup 6-22D at 0.02 ppm; vegetable, tuberous and corm, except potato, subgroup 1D at 0.02 ppm. The gas liquid chromatography method is used to measure and evaluate the chemical residues of fenpropathrin. *Contact:* RD.

- *PP 5F9219.* (EPA-HQ-OPP-2026-1784). Nissan Chemical Corporation, 5-1, Nihonbashi 2-Chome, Chuo-ku, Tokyo 103-6119, Japan, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide, iptriazopyrid, as measured by the sum of 1,2,4-Triazolo[4,3-a]pyridine-8-carboxamide, 3-[[[1-(methylethyl)sulfonyl] methyl]-N-(5-methyl-1,3,4-oxadiazol-2-yl)-5-(trifluoromethyl)- and 5-methyl-1,3,4-oxadiazol-2-amine, expressed as 1,2,4-Triazolo[4,3-a]pyridine-8-carboxamide, 3-[[[1-(methylethyl)sulfonyl]methyl]-N-(5-methyl-1,3,4-oxadiazol-2-yl)-5-(trifluoromethyl)- equivalent in or on rice, grain at 0.90 ppm, rice, straw at 2.0 ppm, cattle, fat at 0.01 ppm; cattle, kidney at 0.15 ppm; cattle, liver at 0.20 ppm; cattle, meat at 0.01 ppm; fish, shellfish, crustacean at 0.04 ppm; goat, fat at 0.01 ppm; goat, kidney at 0.15

ppm; goat, liver at 0.20 ppm; goat, meat at 0.01 ppm; horse, fat at 0.01 ppm; horse, kidney at 0.15 ppm; horse, liver at 0.20 ppm; horse, meat at 0.01 ppm; hog, fat at 0.01 ppm; hog, kidney at 0.15 ppm; hog, liver at 0.15 ppm; hog, meat at 0.01 ppm; milk at 0.01 ppm; poultry, eggs at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, liver at 0.60 ppm; poultry, muscle at 0.01 ppm; sheep, fat at 0.01 ppm; sheep, kidney at 0.15 ppm; sheep, liver at 0.20 ppm; and sheep, meat at 0.01 ppm. Liquid Chromatography-MS/MS is used to measure and evaluate the chemical iptriazopyrid. *Contact:* RD.

• *PP 6F9252.* (EPA-HQ-OPP-2026-4423). Sumitomo Biorational Company, LLC, d/b/a Valent BioSciences LLC, 1910 Innovation Way, Suite 100, Libertyville, Illinois 60048 USA, requests to establish a tolerance in 40 CFR part 180 for residues of the plant regulator Aminoethoxyvinylglycine (Aviglycine) HCl in or on almonds at 0.01 ppm. The high-performance liquid chromatography (HPLC) method is used to measure and evaluate the chemical residues aviglycine and N-acetylaminoethoxyvinylglycine. *Contact:* BPPD.

Authority: 21 U.S.C. 346a.

Dated: August 13, 2026.

Elizabeth Vizard,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2026-16976 Filed 8-19-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-OLEM-2025-2499; EPA-HQ-OLEM-2026-3994; EPA-HQ-OLEM-2026-4886; FRL-13464-01-OLEM]

Proposed Deletion From the National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a Notice of Intent to partially delete three sites from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the applicable states, through their designated state agency, have

determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments regarding this proposed action must be submitted on or before September 21, 2026.

ADDRESSES: EPA has established a docket for this action under the Docket ID Nos. included in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. Submit your comments, identified by the appropriate Docket ID No., by one of the following methods:

- <https://www.regulations.gov>.

Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

- *Email:* docket_OLEM@epa.gov.

Include the Docket ID No. included in table 1 in the subject line of the message.

Instructions: Direct your comments to the Docket ID No. included in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. The <https://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses.

Docket: EPA has established a docket for each site included in this action under the Docket ID Nos. included in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. All documents in the docket are listed on the <https://www.regulations.gov> website. The Final Close-Out Report (FCOR, for a full site deletion) or the Partial Deletion Justification (PDJ, for a partial site deletion) is the primary document which summarizes site information to support the deletion. It is typically written for a broad, non-technical audience and this document is included in the deletion docket for each of the sites in this rulemaking. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Docket materials are available through <https://www.regulations.gov> or at the corresponding Regional Records Center. Location, address, and phone number of the Regional Records Centers follows.

Regional Records Center

- Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Records Manager, Mail code SRC-7J, Metcalfe Federal Building, 7th Floor South, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886-4465.

- Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Lenexa, KS 66219; telephone number: (913) 551-7079.

- EPA Headquarters Docket Center Reading Room (deletion dockets for all States), William Jefferson Clinton (WJC) West Building, Room 3334, 1301 Constitution Avenue NW, Washington,

DC 20004; telephone number: (202) 566-1744.

EPA staff listed below in the **FOR FURTHER INFORMATION CONTACT** section may assist the public in answering inquiries about deleted sites, accessing deletion support documentation, and determining whether there are additional physical deletion dockets available.

FOR FURTHER INFORMATION CONTACT:

- Karen Cibulskis, U.S. EPA Region 5 (IL, IN, MI, MN, OH, WI), email address: cibulskis.karen@epa.gov, telephone number: (312) 886-1843.

- Laura Price and Peyton Witham, U.S. EPA Region 7 (IA, KS, MO, NE), email address: price.laura@epa.gov, telephone number: (913) 551-7130; email address: witham.peyton@epa.gov, telephone number: (816) 947-0470.

- Ashley Miller, Matt Spencer, and Jyl Lapachin, U.S. EPA Headquarters, email address: miller.ashley@epa.gov, telephone number: (202) 566-1851; email address: lapachin.jyl@epa.gov, telephone number: (703) 304-8510.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Full Site or Partial Site Deletion

I. Introduction

EPA is issuing a proposed rule to partially delete three sites from the NPL and requests public comments on these proposed actions. The NPL constitutes appendix B of 40 CFR part 300 which is the NCP, which EPA created under section 105 of the CERCLA statute of 1980, as amended. EPA maintains the NPL as those sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). These partial deletions are proposed in accordance with 40 CFR 300.425(e) and are consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (November 1, 1995). As described in 40 CFR 300.425(e)(3) of the NCP, a site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to delete or partially delete these sites for thirty (30) days after publication of this document in the **Federal Register**.

Section II. of this document explains the criteria for deleting sites from the NPL. Section III. of this document discusses procedures that EPA is using for this action. Section IV. of this document discusses the site or portion of the site proposed for deletion and demonstrates how it meets the deletion criteria, including reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

In accordance with 40 CFR 300.425(e), the following procedures apply to the deletion or partial deletion of the sites in this proposed rule:

(1) EPA consulted with the respective State before developing this Notice of Intent for deletion.

(2) EPA has provided the State 30 working days for review of site deletion

documents prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State, through their designated State agency, has concurred with the proposed deletion action.

(5) Concurrently, with the publication of this Notice of Intent for deletion in the **Federal Register**, a notice is being distributed to the surrounding community via one or more of the following methods: publication in a major local newspaper of general circulation near the site, a news release, listservs, social media, or the site's web page. The notice announces the 30-day public comment period concerning the proposed action for deletion.

(6) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Regional Records Center identified above.

If comments are received within the 30-day comment period on this document, EPA will consider the comments and respond accordingly before making a final decision to delete or partially delete the site. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete or partially delete the site, the EPA will publish a final Notice of Deletion or Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a site or a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site or a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Full Site or Partial Site Deletion

The sites to be deleted or partially deleted from the NPL, the location of the site, and docket number with information including reference documents with the rationale and data

principally relied upon by the EPA to determine that the Superfund response is complete are specified in table 1. The NCP permits activities to occur at a deleted site, or that media or parcel of a partially deleted site, including

operation and maintenance of the remedy, monitoring, and five-year reviews. These activities for the site, or portion of the site being deleted, are entered in table 1, if applicable, under Footnote such that; 1 = site, or portion

of the site, has continued operation and maintenance of the remedy, 2 = site, or portion of the site, receives continued monitoring, and 3 = site, or portion of the site, five-year reviews are conducted.

TABLE 1

Site name	City/county, state	Type	Docket No.	Footnote
U.S. Smelter & Lead Refining Inc.	East Chicago, IL	Partial	EPA-HQ-OLEM-2025-2499 ..	(^{1 3})
Tippecanoe Sanitary Landfill, Inc.	Lafayette, IN	Partial	EPA-HQ-OLEM-2026-3994 ..	(^{1 2 3})
Fort Riley	Junction City, KS	Partial	EPA-HQ-OLEM-2026-4886 ..	.....

¹ = Site, or portion of the site, has continued operation and maintenance of the remedy.
² = Site, or portion of the site, receives continued monitoring.
³ = Site, or portion of the site, five-year reviews are conducted.

Table 2 includes information concerning whether the full site is proposed for deletion from the NPL or a description of the area, media or Operable Units (OUs) of the NPL site proposed for partial deletion from the NPL.

TABLE 2

Site name	Full site deletion (full) or media/parcels/description for partial deletion
U.S. Smelter & Lead Refining Inc.	Surface and subsurface soils (soils) portion of a 52.54-acre commercial/industrial property located within Modified Zone 1 and within a small portion of Zone 1 and Zone 2 of Operable Unit 1 (OU1).
Tippecanoe Sanitary Landfill, Inc.	The land/soil portion of the site including the landfill area, perimeter drainage area, and wetlands.

TABLE 2—Continued

Site name	Full site deletion (full) or media/parcels/description for partial deletion
Fort Riley	Operable Unit 2, also called the Pesticide Storage Facilities Area (PSF), covers about ² / ₃ of an acre around former building 348.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that

future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

(Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.)

Mark Barolo,
Office Director, Office of Superfund and Emergency Management.
[FR Doc. 2026–16994 Filed 8–19–26; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 91, No. 160

Thursday, August 20, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Import and Export Inspection and Certification Systems

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on September 10, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. positions to be discussed at the 28th Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS28) of the Codex Alimentarius Commission (CAC). CCFICS28 will be held in Perth, Australia, from October 12–17, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 28th Session of the CCFICS and to address items on the agenda.

DATES: The public meeting is scheduled for September 10, 2026, from 2:00–4:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 28th Session of the CCFICS will be accessible via the internet at the following address: <https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCFICS&session=28>.

Dr. Maria Esteras, U.S. Delegate to the 28th Session of the CCFICS invites interested U.S. parties to submit their comments electronically to the following email address: uscodex@usda.gov. Comments should state that

they relate to the activities of the 28th Session of the CCFICS.

Registration: Attendees may register to attend the public meeting at the following link: <https://www.zoomgov.com/meeting/register/5zjMfDMpRM2QIpTQZoPQXg>. After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 28th Session of the CCFICS, contact the U.S. Delegate, Dr. Maria Esteras, at uscodex@usda.gov. For additional information regarding the public meeting, contact the U.S. Codex Office by email at: uscodex@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) are:

(a) to develop principles and guidelines for food import and export inspection and certification systems with a view to harmonising methods and procedures which protect the health of consumers, ensure fair trading practices and facilitate international trade in foodstuffs;

(b) to develop principles and guidelines for the application of measures by the competent authorities of exporting and importing countries to provide assurance where necessary that foodstuffs comply with requirements, especially statutory health requirements;

(c) to develop guidelines for the utilisation, as and when appropriate, of quality assurance systems to ensure that foodstuffs conform with requirements and to promote the recognition of these systems in facilitating trade in food products under bilateral/multilateral arrangements by countries;

(d) to develop guidelines and criteria with respect to format, declarations and language of such official certificates as countries may require with a view towards international harmonization;

(e) to make recommendations for information exchange in relation to food import/export control;

(f) to consult as necessary with other international groups working on matters related to food inspection and certification systems; and,

(g) to consider other matters assigned to it by the Commission in relation to food inspection and certification systems. Quality assurance means all those planned and systematic actions necessary to provide adequate confidence that a product or service will satisfy given requirements for quality (ISO–8402 Quality—Vocabulary)

The CCFICS is hosted by Australia. The United States attends the CCFICS as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the agenda for the 28th Session of the CCFICS will be discussed during the public meeting:

- Adoption of the Agenda
- Matters arising from the Codex Alimentarius Commission and its subsidiary bodies
- Information on activities of international organizations relevant to the work of CCFICS
- Draft guidelines on the prevention and control of food fraud
- Draft Consolidated Codex guidelines related to equivalence
- Draft revised *Principles for traceability/product tracing as a tool within a food inspection and certification system* (CXG 60–2006)
- Draft guidance on appeals mechanism in the context of rejection of imported food
- Draft guidance on the standardization of sanitary requirements
- Draft guidance on establishment listings
- Draft principles on digitalisation of national food control systems
- Review and update of Appendix A—List of emerging global issues
- Other Business

Public Meeting

At the September 10, 2026, public meeting, agenda items and draft U.S. positions will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to U.S. Delegate, Dr. Maria Esteras, at

uscodex@usda.gov. Written comments should state that they relate to activities of the 28th Session of the CCFICS.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: <https://www.usda.gov/codex>.

(Authority: 19 U.S.C. 2578; Pres. Proc. 6780; 7 CFR part 2.602.)

Done at Washington, DC, on August 18, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026-17036 Filed 8-19-26; 8:45 am]

BILLING CODE 3420-3F-P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Contaminants in Foods (CCCF)

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on September 29, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items to be discussed at the 19th Session of the Codex Committee on Contaminants in Foods (CCCF19) of the Codex Alimentarius Commission (CAC). CCCF19 will be held in Cairo, Egypt, from October 19–23, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 19th Session of the CCCF and to address items on the agenda.

DATES: The public meeting is scheduled for September 29, 2026, from 1:00–3:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 19th Session of the CCCF will be accessible via the internet at the following address: <https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCCF&session=19>.

Dr. Lauren Posnick Robin, U.S. Delegate to the 19th Session of the CCCF, invites interested U.S. parties to submit their comments electronically to the following email addresses: [\[anh.nguyen@fda.hhs.gov\]\(mailto:anh.nguyen@fda.hhs.gov\), copying \[uscodex@usda.gov\]\(mailto:uscodex@usda.gov\). Comments should state that they relate to the activities of the 19th Session of the CCCF.](mailto:quynh-</p>
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Registration: Attendees may register to attend the public meeting at the following link: <https://www.zoomgov.com/meeting/register/400bhBADTZyZWZ3uVPA2uw>. After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 19th Session of the CCCF, contact U.S. Delegate, Dr. Lauren Posnick Robin, at lauren.rosin@fda.hhs.gov. For additional information regarding the public meeting, contact the U.S. Codex Office by email at uscodex@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Contaminants in Foods (CCCF) are:

- (a) to establish or endorse permitted maximum levels, and where necessary revise existing guidelines levels, for contaminants and naturally occurring toxicants in food and feed;
- (b) to prepare priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint Expert Committee on Food Additives;
- (c) to consider methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed;
- (d) to consider and elaborate standards or codes of practice for related subjects; and
- (e) to consider other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed.

The CCCF is hosted by the Netherlands. The Netherlands is co-hosting the 19th Session of the CCCF with Egypt. The United States attends the CCCF as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the agenda for the 19th Session of the CCCF will be discussed during the public meeting:

- Adoption of the Agenda

- Matters referred to the Committee by the Codex Alimentarius Commission and/or its subsidiary bodies
- Matters of interest arising from international organizations including the Joint Expert Committee on Food Additives
- Matters of interest arising from other international organizations
- Code of practice for the prevention and reduction of cadmium contamination in foods (at Step 4)
- Code of practice for the prevention and reduction of tropane alkaloids contamination in food and feed (at Step 4)
- Code of practice for the reduction of aflatoxin B1 in raw materials and supplemental feeding stuffs for milk-producing animals (CXC 45–1997) (revision) (at Step 4)
- Code of practice for weed control to prevent and reduce pyrrolizidine alkaloid contamination in food and feed (CXC 74–2014) (revision) (at Step 4)
- Review of the ML for methylmercury in tuna and the associated sampling plan
- Proposal for a JECFA call for data on total aflatoxins in cereals and cereal-based foods
- Review of the Code of practice for the reduction of acrylamide in foods (CXC 67–2009)
- Development of a Code of practice for the prevention and reduction of ochratoxin A contamination in dried fruits
- Consideration of T–2, HT–2, DAS, and ergot alkaloids
- Development of guidelines on the safe use of recycled plastics in food packaging
- Application of maximum levels to spice mixtures
- Identification of methods of analysis or numeric performance criteria for maximum levels in the General Standard for contaminants and toxins in food and feed (CXS 193–1995) for which there are not methods in the Recommended methods of analysis and sampling (CXS 234–1999)
- Guidance on data analysis for the development of maximum levels and for improved data collection—Annexes
- Review of Codex standards for contaminants
- Priority list of contaminants for evaluation by JECFA
- Follow-up work on the outcomes of JECFA evaluations and expert consultations
- Other business

Public Meeting

At the September 29, 2026, public meeting, agenda items will be described

and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to U.S. Delegate, Dr. Lauren Posnick Robin, via Quynh-Anh Nguyen, at quynh-anh.nguyen@fda.hhs.gov, copying uscodex@usda.gov. Written comments should state that they relate to activities of the 19th Session of the CCCF.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: <https://www.usda.gov/codex>.

Done at Washington, DC, on August 18, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026-17041 Filed 8-19-26; 8:45 am]

BILLING CODE 3420-3F-P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Pesticide Residues

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on August 26, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. positions to be discussed at the 57th Session of the Codex Committee on Pesticide Residues (CCPR57) of the Codex Alimentarius Commission (CAC). CCPR57 will be held in Beijing, China, from September 7–12, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 57th Session of the CCPR and to address items on the agenda.

DATES: The public meeting is scheduled for August 26, 2026, from 2:00–4:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 57th Session of the CCPR will be accessible via the internet at the following address: [https://www.fao.org/fao-who-](https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCPR&session=57)

[codexalimentarius/meetings/detail/en/?meeting=CCPR&session=57](https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCPR&session=57).

Mr. Aaron Niman, U.S. Delegate to the 57th Session of the CCPR, invites interested U.S. parties to submit their comments electronically to the following email address: niman.aaron@epa.gov. Comments should state that they relate to the activities of the 57th Session of the CCPR.

Registration: Attendees may register to attend the public meeting at the following link: <https://www.zoomgov.com/meeting/register/puAyMRHqQsiNiFR06eZBpw>. After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 57th Session of the CCPR, contact the U.S. Delegate, Mr. Aaron Niman, niman.aaron@epa.gov. For additional information regarding the public meeting, contact the U.S. Codex Office by email at: uscodex@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Pesticide Residues (CCPR) are:

(a) to establish maximum limits for pesticide residues in specific food items or in groups of food;

(b) to establish maximum limits for pesticide residues in certain animal feeding stuffs moving in international trade where this is justified for reasons of protection of human health;

(c) to prepare priority lists of pesticides for evaluation by the Joint Meeting on Pesticide Residues (JMPR);

(d) to consider methods of sampling and analysis for the determination of pesticide residues in food and feed;

(e) to consider other matters in relation to the safety of food and feed containing pesticide residues; and,

(f) to establish maximum limits for environmental and industrial contaminants showing chemical or other similarity to pesticides, in specific food items or groups of food.

The CCPR is hosted by China. The United States attends the CCPR as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the agenda for the 57th Session of the CCPR will be discussed during the public meeting:

- Adoption of the Agenda
- Appointment of Rapporteurs
- Matters referred to CCPR by CAC and/or other subsidiary bodies
- Matters arising from other international organizations
- Report on items of general consideration arising from the 2025 JMPR meeting
- Report on responses to specific concerns raised by CCPR arising from the 2025 JMPR meeting
- Proposed Maximum Residue Limits (MRLs) for pesticides in food and feed
- Other matters related to MRLs in the Codex Pesticide Residues
- Alignment of adopted Codex MRLs (CXLs) in the Codex Pesticide Residues Database following revision of the *Classification of foods and animal feeds* (CXA 4–1989)
- Management of unsupported compounds without public health concern scheduled for periodic review
- Establishment of Codex Schedules and Priority Lists of Pesticides for Evaluation/Re-Evaluation by JMPR
- Coordination of work between CCPR and the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF): Joint CCPR/CCRVDF Working Group on Dual Use Compounds—Status of work
- Other Business

Public Meeting

At the August 26, 2026, public meeting, agenda items and draft U.S. positions will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to U.S. Delegate, Mr. Aaron Niman, niman.aaron@epa.gov. Written comments should state that they relate to activities of the 57th Session of the CCPR.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: <https://www.usda.gov/codex>.

(Authority: 19 U.S.C. 2578; Pres. Proc. 6780; 7 CFR 2.602.)

Done at Washington, DC, on August 17, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026-16962 Filed 8-19-26; 8:45 am]

BILLING CODE 3410-3F-P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Milk and Milk Products

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on September 17, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. positions to be discussed at the 11th Session of the Codex Committee on Milk and Milk Products (CCMMP11) of the Codex Alimentarius Commission (CAC). CCMMP11 will be held by correspondence from September 29–October 29, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 11th Session of the CCMMP and to address items on the agenda.

DATES: The public meeting is scheduled for September 17, 2026, from 1:00–3:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 11th Session of the CCMMP will be accessible via the internet at the following address:

<https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCMMP&session=11>.

Mr. Christopher Thompson, U.S. Delegate to the 11th Session of the CCMMP, invites interested U.S. parties to submit their comments electronically to the following email address: christopher.d.thompson@usda.gov. Comments should state that they relate to the activities of the 11th Session of the CCMMP.

Registration: Attendees may register to attend the public meeting at the following link: <https://www.zoomgov.com/meeting/register/Xha-fhm2TZmSYrRsXouCag>. After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 11th Session of the CCMMP, contact the U.S. Delegate, Mr. Christopher Thompson, at christopher.d.thompson@usda.gov. For additional information regarding the public meeting, contact the U.S. Codex Office by email at: uscodex@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Milk and Milk Products are:

(a) To elaborate world-wide standards, codes and related texts for milk and milk products.

The CCMMP is hosted by New Zealand. The United States attends the CCMMP as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the agenda for the 11th Session of the CCMMP will be discussed during the public meeting:

- Adoption of the Agenda
- Proposed draft standard for pasteurized liquid camel milk (Step 4)

Public Meeting

At the September 17, 2026, public meeting, agenda items and draft U.S. positions will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to U.S. Delegate, Mr. Christopher Thompson, at christopher.d.thompson@usda.gov. Written comments should state that they relate to activities of the 11th Session of the CCMMP.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: <https://www.usda.gov/codex>.

(Authority: 19 U.S.C. 2578; Pres. Proc. 6780; 7 CFR part 2.602.)

Done at Washington, DC, on August 18, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026-17044 Filed 8-19-26; 8:45 am]

BILLING CODE 3420-3F-P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority Combined Board and Board Committees Meeting

AGENCY: First Responder Network Authority (FirstNet Authority), National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Announcement of meeting.

SUMMARY: The FirstNet Authority Board will convene a public meeting of the Board and Board Committees.

DATES: September 15, 2026; 1:00 p.m. to 2:00 p.m. Eastern Daylight Time (EDT); Boston, Massachusetts.

ADDRESSES: The public meeting will be held at the Omni Parker House in the Louisa May Alcott Room at 60 School St., Boston, MA 02108. All expected attendees are asked to provide notice of intent to attend by sending an email to BoardRSVP@Firstnet.gov. Members of the public may listen to the meeting and view the presentation by joining from the Microsoft Teams meeting link: <https://teams.microsoft.com/meet/21498696853258?p=8L0ziuyTcCuX4uoF5C>.

Meeting ID: 214 986 968 532 58
Passcode: kp6uW3BS

If you experience technical difficulty, contact the FirstNet Authority Customer Support Service Desk at CCSD@FirstNet.gov. Teams link and information can also be found on the FirstNet Authority website ([FirstNet.gov](https://www.FirstNet.gov)).

FOR FURTHER INFORMATION CONTACT:

General information: Jennifer Watts, (571) 665-6178, Jennifer.Watts@FirstNet.gov.

Media inquiries: Ryan Oremland, (571) 665-6186, Ryan.Oremland@FirstNet.gov.

SUPPLEMENTARY INFORMATION:

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. 1401 *et seq.*) (Act) established the FirstNet Authority as an independent authority within NTIA. The Act directs the FirstNet Authority to ensure the building, deployment, and operation of a nationwide interoperable

public safety broadband network. The FirstNet Authority Board is responsible for making strategic decisions regarding the operations of the FirstNet Authority.

Matters to be Considered: The FirstNet Authority will post a detailed agenda for the Combined Board and Board Committees Meeting on *FirstNet.gov* prior to the meeting. The agenda topics are subject to change. Please note that the subjects discussed by the Board and Board Committees may involve commercial or financial information that is privileged or confidential, or other legal matters affecting the FirstNet Authority. As such, the Board may, by majority vote, close the meeting only for the time necessary to preserve the confidentiality of such information, pursuant to 47 U.S.C. 1424(e)(2).

Other Information: The public Combined Board and Board Committees Meeting is accessible to people with disabilities. Individuals requiring accommodations are asked to notify Jennifer Watts at (571) 665–6178 or email: *Jennifer.Watts@FirstNet.gov* before the meeting.

Records: The FirstNet Authority maintains records of all Board proceedings. Minutes of the Combined Board and Board Committees Meeting will be available on *FirstNet.gov*.

Dated: August 18, 2026.

Jennifer Watts,

Board Secretary, First Responder Network Authority.

[FR Doc. 2026–17002 Filed 8–19–26; 8:45 am]

BILLING CODE 3510–TL–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–291–2026]

Foreign-Trade Zone 7; Approval of Subzone Status; Venture Steel, Inc.; Bayamón, Puerto Rico

On June 2, 2026, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on behalf of Venture Steel, Inc., in Bayamón, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 33688, June 4, 2026). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant

to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 7V was approved on August 18, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: August 18, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–17028 Filed 8–19–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–306–2026]

Foreign-Trade Zone 163; Approval of Subzone Status; Pompina Mayaguez LLC; Ponce, Puerto Rico

On June 8, 2026, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of Pompina Mayaguez LLC, in Ponce, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 35658, June 12, 2026). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 163P was approved on August 18, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 163's 936.984-acre activation limit.

Dated: August 18, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–17022 Filed 8–19–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published an initiation of antidumping and countervailing duty administrative reviews in the **Federal Register** of August 10, 2026 in which Commerce omitted Prestressed Concrete Steel Wire Strand (PC Strand) from Malaysia (A–557–819) and Boltless Steel Shelving Units Prepackaged for Sale (Boltless Steel Shelving) from the Socialist Republic of Vietnam (Vietnam) (A–552–835).

DATES: Applicable August 20, 2026.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2026, Commerce published in the **Federal Register** an initiation of Antidumping and Countervailing Duty Administrative Reviews.¹ However, PC Strand from Malaysia and Boltless Steel Shelving from Vietnam and the corresponding companies under review for these orders were inadvertently omitted from the initiation notice.

Correction

In the **Federal Register** of August 10, 2026, in FR Doc 2026–16265, add the following information under the “Initiation of Reviews” section:

Malaysia: PC Strand, A–557–819—Period of Review 6/1/2025–5/31/2026
Kiswire Sdn. Bhd.
Southern Steel Sdn. Bhd.
Wei Dat Steel Wire Sdn. Bhd.

Vietnam: Boltless Steel Shelving, A–552–835—Period of Review 6/1/2025–5/31/2026

Great Star Vietnam Co. Ltd.
Cuong Nghia Imp. Exp.
Quoc Ham Co., Ltd.
Thanh Phong Production and Trade Limited Company
Xinguang (Vietnam) Logistic Equipment Co., Ltd
Parkway Thanh Phong Co., Ltd.
Vietnam Shuntong Metal Products Co. Ltd.
Kang Yang Vietnam Co., Ltd.
Huang Ding Hardware Co., Ltd
Savimex Corporation
Royal Corinthian Vietnam Co.

This serves as a correction notice.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 91 FR 51436 (August 10, 2026).

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213.

Dated: August 18, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-17038 Filed 8-19-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

**Arizona State University et al.:
Application(s) for Duty-Free Entry of
Scientific Instruments**

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for

which the instruments shown below are intended to be used, are being manufactured in the United States. Further information on the application can be found here: <https://www.trade.gov/sips-florence-frs>.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before September 9, 2026. Address written comments to Statutory Import Programs Staff, Room 40005, U.S. Department of Commerce, Washington, DC 20230. Please also email a copy of those comments to SIPS-Florence@trade.gov.

Docket No.	Applicant	Instrument
25-070	Arizona State University	Multiport Oscillator System.
25-072	Lawrence Berkeley National Laboratory	Vacuum Chambers.
25-073	Arizona State University	Chirped Mirror Compressor Subsystem.
25-075	Arizona State University	Trumpf Laser Boards Subsystem.
26-001	UChicago Argonne LLC	Pink Beam Slit & Drain Current.
26-002	UChicago Argonne LLC	Horizontally Deflecting Double-Crystal Monochromator (HDCM).
26-009	Arizona State University	Customized TruMicro 2000 Seed Laser System.
26-010	Arizona State University	DIRA-500-1 (DIRA 350-1; CFBG and Waveshaper; Multipass 600-1; Compressor 500-1; Dry Air Generator).
26-011	The Board of Trustees of the Leland Stanford Junior University	Hyperion II RF Plasma Oxygen Source for the Cameca Nano SIMS 50L.
26-012	UChicago Argonne LLC	Photocathode (PC) Gun Drive Laser.
26-013	UChicago Argonne LLC	8-ID Pink Beam Filter.
26-014	UChicago Argonne LLC	Deflectic Focusing Mirror System.
26-017	UChicago Argonne LLC	Nanopositioner and Accessories.
26-018	UChicago Argonne LLC	X-Ray Pulse Train Modulator.
26-022	Lawrence Berkeley National Laboratory	JEM-ARM300F2(WS) Atomic Resolution Electron Microscope.
26-023	UChicago Argonne LLC	EIGER2 X 1M.
26-027	UChicago Argonne LLC	Liquid Nitrogen Cryocooler System.
26-029	UChicago Argonne LLC	High Precision Air Bearing Stage.
26-037	UChicago Argonne LLC	High Performance Tunable Laser.
26-039	UChicago Argonne LLC	PtychoProbe Mechatronics Core.
26-040	Board of Trustees of the Leland Stanford Junior University	Bluefors Dilution Refrigerator.
26-044	Lawrence Berkeley National Laboratory	Segmented Quad Germanium Detectors.
26-051	Board of Trustees of the Leland Stanford Junior University	Bluefors Dilution Refrigerator.
26-055	UChicago Argonne LLC	Custom Lens.
26-063	California Polytechnic State University San Luis Obispo	Mach 6 Ludwig Tube Wind Tunnel.
26-066	Lawrence Berkeley National Laboratory	72 Scientific Vacuum Chambers.
26-068	UChicago Argonne LLC	Cryogenic Hall Probe.
26-070	Arizona State University	Spectral Broadening Multipass Cell (MPC) Optics Package Subsystem.
26-079	U.S. Department of Health and Human Services, National Institute of Health.	Nuclear Magnetic Resonance Spectroscopy Cryoprobe and Cryoplatform.
26-080	UChicago Argonne LLC	Microscope.
26-081	Lawrence Berkeley National Laboratory	Booster to Accumulator (BTA) Septa Magnet System.
26-085	UChicago Argonne LLC	Pre-figured Mirror Mount System.
26-086	UChicago Argonne LLC	Photoreactor and Accessories.
26-095	Lawrence Berkeley National Laboratory	Dilution Refrigeration System.
26-099	Lawrence Berkeley National Laboratory	X-Ray Diffractometer.
26-100	Lawrence Berkeley National Laboratory	Ultra Low Vibration Cryo-Cooler.
26-102	Lawrence Berkeley National Laboratory	SR BE&C Vacuum Chambers.
26-137	Iowa State University of Science and Technology dba Ames National Laboratory of the U.S. Department of Energy.	Gyrotron and DNP Probe.

Dated: August 17, 2026.

Lana Nigro,

Acting Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2026-17026 Filed 8-19-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-877]

Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that producers/exporters of stainless steel flanges (flanges) from India made sales of subject merchandise in the United States at prices below normal value during the period of review (POR) October 1, 2023, through September 30, 2024.

DATES: Applicable August 20, 2026.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7425.

SUPPLEMENTARY INFORMATION:**Background**

On December 19, 2024, Commerce selected the following companies as the mandatory respondents in this administrative review: BFN/Viraj¹ and Chandan Steel Limited (Chandan).² On February 18, 2026, Commerce published the *Preliminary Results* in the **Federal Register** and invited interested parties to comment.³ On May 29, July 21, and August 3, 2026, Commerce extended the deadline for the final results of this review, in accordance with section

751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2).⁴ The deadline for the final results is now August 17, 2026. For a complete description of the events that have occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ Commerce conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order⁶

The merchandise covered by the *Order* is flanges from India. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

The issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum.⁷ A list of the issues raised is attached to this notice in Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Changes Since the Preliminary Results

We made no changes to the *Preliminary Results* based on comments from interested parties.

Review-Specific Rate for Companies Not Selected for Individual Review

The Act and Commerce's regulations do not address the rate to be applied to

companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair value (LTFV) investigation for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any margins that are zero, *de minimis*, or determined entirely on the basis of facts available.

In this administrative review, Commerce preliminarily assigned a margin based entirely on adverse facts available to BFN/Viraj. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Chandan. Accordingly, we continue to assign Chandan's rate of 0.60 percent to the companies not selected for individual examination in this review, in accordance with section 735(c)(5)(B) of the Act. The companies not selected for individual examination are listed in Appendix II.

Final Results of Review

As a result of this review, we determine that the following estimated weighted-average dumping margins exist for the period October 1, 2023, through September 30, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Chandan Steel Limited	0.60
BFN Forgings Private Limited; Flanschen werk Bebitz GmbH; Viraj Alloys, Ltd.; Viraj Forgings, Ltd.; Viraj Impoexpo, Ltd.; and Viraj Profiles Limited	50.72
Companies Not Selected for Individual Review ⁸	0.60

¹ BFN/Viraj is a collective entity consisting of BFN Forgings Private Limited; Flanschen werk Bebitz GmbH; Viraj Alloys, Ltd.; Viraj Forgings, Ltd.; Viraj Impoexpo, Ltd.; and Viraj Profiles Private Limited (collectively, BFN/Viraj). See, e.g., *Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination*, 83 FR 40745 (August 16, 2018), where Commerce collapsed these entities.

² See Memorandum, "Respondent Selection," dated December 19, 2024.

³ See *Stainless Steel Flanges from India: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 7433 (February 18, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

⁴ See Memoranda, "Stainless Steel Flanges from India: Extension of Deadline for Final Results of 2023–2024 Antidumping Duty Administrative Review," dated May 29, 2026; "Extension of Deadline for Final Results of 2023–2024 Antidumping Duty Administrative Review," dated July 21, 2026; and "Extension of Deadline for Final

Results of 2023–2024 Antidumping Duty Administrative Review," dated August 3, 2026.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Flanges from India; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Stainless Steel Flanges from India: Antidumping Duty Order*, 83 FR 50639 (October 9, 2018) (*Order*).

⁷ See Issues and Decision Memorandum.

⁸ The exporters/producers not selected for individual examination are listed in Appendix II.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), for Chandan, we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. For the companies identified in Appendix II that were not selected for individual examination, we assigned an assessment rate based on the methodology described in the “Review-Specific Rate for Companies Not Selected for Individual Review” section, above. For BFN/Viraj, we will instruct CBP to assess antidumping duties on all appropriate entries based on the dumping margin listed in the “Final Results of Review” section, above.

In accordance with Commerce’s “automatic assessment” practice, for entries of subject merchandise during the POR produced by Chandan for which the company did not know that the merchandise it sold to the intermediary (*i.e.*, a reseller, trading company, or exporter) was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate (*i.e.*, 7.00 percent),⁹ if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the

time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be the rate established in the final results of this review; (2) for merchandise exported by producers or exporters not covered by this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered by this review, a previous review, or the LTFV investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.00 percent,¹¹ the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written

notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 17, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issues
 - Comment 1: Differential Pricing Analysis
 - Comment 2: Application of Adverse Facts Available (AFA) to BFN/Viraj
- V. Recommendation

Appendix II

List of Companies Not Selected for Individual Examination

1. Balkrishna Steel Forge Pvt. Ltd.
2. CD Industries (Prop. Kisaan Engineering Works Pvt. Ltd.)
3. Cetus Engineering Private Limited
4. Fivebros Forgings Private Limited
5. Hilton Metal Forging Limited
6. Jai Auto Pvt. Ltd.
7. Kisaan Die Tech Private Limited
8. Pradeep Metals Limited
9. R.N. Gupta & Company Limited

[FR Doc. 2026–17032 Filed 8–19–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–119, C–570–120]

Certain Large Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof From the People’s Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) order and countervailing duty (CVD) order on certain large vertical

⁹ See *Stainless Steel Flanges from India: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Investigation; Notice of Amended Final Determination*, 86 FR 50325, 50326 (September 8, 2021) (*Amended Final*).

¹⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹¹ See *Amended Final*, 86 FR at 50326.

shaft engines between 225cc and 999cc, and parts thereof (vertical shaft engines) from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable August 11, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4236.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2021, Commerce published in the **Federal Register** the AD and CVD orders on vertical shaft engines from China.¹ On February 2, 2026, the ITC instituted,² and Commerce initiated,³ the first sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.⁴

¹ See *Certain Large Vertical Shaft Engines Between 25cc and 999cc, and Parts Thereof from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order*, 86 FR 12623 (March 4, 2021), as corrected in *Certain Large Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Notice of Correct to the Amending Final Antidumping Duty Determination and Antidumping Duty Order*, 86 FR 13694 (March 10, 2021); see also *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 12619 (March 4, 2021) (collectively, *Orders*).

² See *Large Vertical Shaft Engines from China: Institution of Five-Year Reviews*, 91 FR 4625 (February 2, 2026).

³ See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 4499 (February 2, 2026).

⁴ See *Certain Large Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 91 FR 31702 (May 28, 2026), and accompanying Issues and Decision Memorandum (IDM); and *Certain Large Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 91 FR 33141 (June 3, 2026), and accompanying IDM.

On August 11, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The merchandise covered by these *Orders* consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, primarily for riding lawn mowers and zero-turn radius lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment such as, including but not limited to, tow-behind brush mowers, grinders, and vertical shaft generators. The subject engines are spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 225 cubic centimeters (cc) and a maximum displacement of 999cc. Typically, engines with displacements of this size generate gross power of between 6.7 kilowatts (kw) to 42 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of these *Orders*.

For purposes of these *Orders*, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as an oil pan, manifold, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of these *Orders*. The inclusion

⁵ See *Large Vertical Shaft Engines from China: Determinations*, 91 FR 51747 (August 11, 2026) (ITC Final Determination).

of other products such as spark plugs fitted into the cylinder head or electrical devices (e.g., ignition modules, ignition coils) for synchronizing with the motor to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third country does not remove the engine from the scope.

The engines subject to these *Orders* are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8407.90.1020, 8407.90.1060, and 8407.90.1080. The engine subassemblies that are subject to these *Orders* enter under HTSUS 8409.91.9990. Engines subject to these *Orders* may also enter under HTSUS 8407.90.9060 and 8407.90.9080. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise subject to these *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be August 11, 2026.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the

⁶ See *ITC Final Determination*.

regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: August 13, 2026.

Scot Fullerton,
Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–17031 Filed 8–19–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that light-walled rectangular pipe and tube (LWRPT) from Mexico was sold in the United States at less than normal value during the period of review (POR), August 1, 2023, through July 31, 2024.

DATES: Applicable August 20, 2026.

FOR FURTHER INFORMATION CONTACT: John Conniff or Charles Doss, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1009 or (202) 482–4474, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 2026, Commerce published the *Preliminary Results* of this review in the **Federal Register** and invited interested parties to comment on those results.¹ On April 30, 2026, we extended the deadline for these final results to August 14, 2026.² For a summary of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.³ Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁴

The products covered by the *Order* are light-walled rectangular pipe and tube from Mexico. For a complete description of the scope, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding the *Preliminary*

Results, we made certain changes to the margin calculations for Perfiles LM, S.A. de C.V. (Perfiles) and Regiomontana de Perfiles y Tubos S. de R.L. de C.V. (Regiopytsa). For a discussion of these changes, see the Issues and Decision Memorandum.

Rates for Companies Not Selected for Individual Examination

For the rate for non-selected respondents in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.” In this segment of the proceeding, we calculated weighted-average dumping margins for Perfiles and Regiopytsa that are not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, in these final results, Commerce is assigning the weighted-average, based on the mandatory respondents’ publicly-ranged volumes of U.S. sales made during the POR, of the weighted-average dumping margins calculated for Perfiles and Regiopytsa as the dumping margin for the companies not selected for individual examination, consistent with section 735(c)(5)(B) of the Act.⁵

Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period August 1, 2023, through July 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Perfiles LM, S.A. de C.V	10.23
Regiomontana de Perfiles y Tubos S. de R.L. de C.V	6.36
Aceros Cuatro Caminos S.A. de C.V./Productos Laminados de Monterrey S.A. de C.V. ⁶	8.16
Maquilacero S.A. de C.V./Tecnicas de Fluidos S.A. de C.V. ⁷	8.16

¹ See *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 8420 (February 23, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated April 30, 2026.

³ See Memorandum, “Issues and Decision Memorandum for the Final Results of the

Administrative Review of the Antidumping Duty Order on Light-Walled Rectangular Pipe and Tube from Mexico; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See *Light-Walled Rectangular Pipe and Tube from Mexico, the People’s Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final*

Determination of Sales at Less Than Fair Value, 73 FR 45403 (August 5, 2008) (*Order*).

⁵ See Memorandum, “Calculation of the Rate for Non-Selected Respondents,” dated concurrently with this notice; see also *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

Producer or exporter	Weighted-average dumping margin (percent)
Ternium Mexico S.A. de C.V	8.16

Disclosure

Commerce intends to disclose to interested parties the calculations performed for these final results in this review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. Where the respondent did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific *ad valorem* ratio based on estimated entered values. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" will apply to entries of subject

merchandise during the POR produced by the mandatory respondents for which the companies did not know that the merchandise they sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register** in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies identified above in the "Final Results of Review" section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-specific rate established for the most recently-completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 3.76 percent, the rate established in the original less-than-fair-value investigation.⁸ These cash deposit requirements, when imposed, shall remain in effect until further notice.

⁸ See Order.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: August 14, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Revise Its Differential Pricing Analysis
 - Comment 2: Whether Commerce Should Use a Mixed Comparison Method
 - Comment 3: Whether Commerce Should Include Certain U.S. Export Sales
 - Comment 4: Whether Commerce Should Use Theoretical Weights or Actual Weights to Analyze U.S. Sales

⁶ Commerce has previously found Aceros Cuatro Caminos S.A. de C.V./Productos Laminados de Monterrey S.A. de C.V. to comprise a single entity. See, e.g., *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 83 FR 10664 (March 12, 2018).

⁷ Commerce has previously found Maquilacero S.A. de C.V. and Tecnicas de Fluidos S.A. de C.V. to comprise a single entity. See, e.g., *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019*, 86 FR 33646 (June 25, 2021), and accompanying Issues and Decision Memorandum at Comment 9.

Comment 5: Whether Commerce Should Collapse Perfiles with an Affiliated Supplier
 Comment 6: Whether Commerce Should Adjust Perfiles' General and Administrative (G&A) Expenses to Account for Grupo LM's Expenses
 Comment 7: Whether Commerce Should Exclude Perfiles' Interest Income from the Calculation of Its Interest Expense
 Comment 8: Whether Commerce Should Revise Its Level of Trade Programming
 Comment 9: Whether Commerce should Deduct Inland Freight to the Customer
 Comment 10: Whether Commerce Should Include Certain of Regiopytsa's Accounts in the Calculation of its G&A Expense Ratio
 Comment 11: Whether Commerce Should Use Fiscal Year 2023 or 2024 Financial Statements to Calculate Regiopytsa's G&A Expenses
 Comment 12: Whether Commerce Should Include Regiopytsa's Insurance Revenue Billed to Customers
 Comment 13: Whether Commerce Should Include Certain Expenses from Fiscal Year 2023 in the Calculation of Regiopytsa's G&A Expenses
 Comment 14: Whether Commerce Should Include Certain Revenues in Regiopytsa's G&A Expense Ratio

VI. Recommendation

[FR Doc. 2026–17033 Filed 8–19–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–879, A–570–240, A–533–952, A–580–923, A–201–870, C–570–241, C–533–953, C–201–871]

Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Certain Linear Hydraulic Cylinders and Parts Thereof From Canada, the People's Republic of China, India, the Republic of Korea, and Mexico

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 18, 2026.

FOR FURTHER INFORMATION CONTACT:

Anjali Mehindiratta at (202) 482–9127 or Travis Hargett at (202) 482–4604 (Canada AD); Kate Fracke at (202) 482–3299 (the People's Republic of China (China) AD); Natasia Byrd at (202) 482–1240 or Andrew Hart at (202) 482–1058 (China CVD) Lingjun Wang at (202) 482–2316 (India AD); Stefan Smith at (202) 482–4342 (India CVD), Suresh Maniam at (202) 482–0176 or Blair Hood at (202) 482–8329 (the Republic of Korea (Korea) AD), Brittany Bauer at (202) 482–3860 (Mexico AD); Howard Smith at (202) 482–5193 (Mexico CVD),

AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Extension of Initiation of Investigation

The Petitions

On July 29, 2026, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions on imports of certain linear hydraulic cylinders and parts thereof (linear hydraulic cylinders) from Canada, China, India, Korea, and Mexico, and countervailing duty (CVD) petitions on imports of linear hydraulic cylinders from China, India, and Mexico filed in proper form on behalf of the Hydraulic Cylinders Fair Trade Coalition and its individual members (collectively, the petitioners), domestic producers of linear hydraulic cylinders.¹

Determination of Industry Support for the Petitions

Sections 702(b)(1) and 732(b)(1) of the Tariff Act of 1930, as amended (the Act), require that a petition be filed by or on behalf of the domestic industry. To determine that the petition has been filed by or on behalf of the industry, sections 702(c)(4)(A) and 732(c)(4)(A) of the Act require that the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, sections 702(c)(4)(D) and 732(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

¹ See Petitioners' Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties," dated July 29, 2026 (Petitions). The individual members of the Hydraulic Cylinders Fair Trade Coalition are Aggressive Hydraulics Inc., Hol-Mac Corporation, Ligon Hydraulics, Prince Manufacturing Corporation, PTC Alliance LLC, Rosenboom Machine and Tool Inc., Scot Industries Inc., Stillwell Inc., and Texas Hydraulics Inc.

Extension of Time

Sections 702(c)(1)(A) and 732(c)(1)(A) of the Act provide that within 20 days of the filing of an AD or CVD petition, Commerce will determine, *inter alia*, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Sections 702(c)(1)(B) and 732(c)(1)(B) of the Act provide that the deadline for the initiation determination, in exceptional circumstances, may be extended by 20 days in any case in which Commerce must "poll or otherwise determine support for the petition by the industry." Because it is not clear from the Petitions whether the industry support criteria have been met, Commerce has determined it would be appropriate in these cases to poll the industry and extend the time period for determining whether to initiate the investigations in order to further examine the issue of industry support.

Commerce will need additional time to gather and analyze additional information regarding industry support. Therefore, it is necessary to extend the deadline for determining the adequacy of the Petitions by an additional 20 days. As a result, in accordance with sections 702(c)(1)(B) and 732(c)(1)(B) of the Act, Commerce's initiation determination will now be due no later than September 8, 2026.²

International Trade Commission Notification

Commerce will contact the U.S. International Trade Commission (ITC) and will make this extension notice available to the ITC.

Dated: August 18, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–17034 Filed 8–19–26; 8:45 am]

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² After extending the initiation deadline by 20 days, the new deadline for initiation falls on September 7, 2026, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, September 8, 2026).

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. 260818–0007; XRIN 0648–XA009]

Notice of Mission Authorization Pilot Program

AGENCY: Office of Space Commerce (OSC), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice; request for expressions of interest in participating in mission authorization proposal pilot process.

SUMMARY: Pursuant to Section 5 of Executive Order 14335, “Enabling Competition in the Commercial Space Industry,” the Office of Space Commerce (OSC) seeks to implement a streamlined, unified, whole-of-government mission authorization framework for novel in-space activities. To refine this proposed Space Commerce Certification (SCC) framework, OSC is inviting expressions of interest from U.S. entities in participating in a pilot phase.

DATES: Space operators interested in participating in the SCC framework pilot program must submit expressions of interest no later than October 5, 2026.

ADDRESSES: Operators may express interest in participating in the SCC framework pilot program by sending an email to Space.Certification@noaa.gov.

FOR FURTHER INFORMATION CONTACT: For general inquiries, contact Gabriel Swiney, Director, Policy, Advocacy, and International Division, Office of Space Commerce, NOAA, U.S. Department of Commerce, at gabriel.swiney@noaa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 5 of Executive Order 14335, “Enabling Competition in the Commercial Space Industry,” (E.O. 14335) and following the March 2026 release of our Proposal for Space Commerce Certification Process, the Office of Space Commerce (OSC) seeks to implement a streamlined individualized mission authorization framework for novel in-space activities. As stated in E.O. 14335, this mission authorization is intended for in-space activities that are not currently clearly or straightforwardly governed by existing regulatory frameworks.

To refine this proposed Space Commerce Certification (SCC) framework, OSC is inviting expressions of interest in participating in a pilot phase. Any United States entity interested in participating and potentially having their missions

selected to test the SCC framework process are invited to submit summaries of planned missions. OSC will review submissions and notify those who are selected to participate as part of the pilot phase.

In coordination with the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Department of War, Department of State, and National Aeronautics and Space Administration, and other relevant agencies as needed, OSC will use this pilot phase to test and further develop its SCC proposal in a transparent manner and with expected engagement opportunities for industry stakeholders and the public. Specifically, selected participants will be requested to complete an SCC application. OSC, with other relevant agencies noted above, intends to review this application to identify areas of interagency concern. Together with the participant, OSC would seek adjustments and practices to address those areas of interagency concern. Once complete, OSC intends to issue an SCC. An SCC may include OSC’s recommended best practices for the proposed mission.

Participants will have the opportunity to provide the agencies with feedback on the process. This input is expected to inform future regulatory approaches to expedite and streamline authorizations for novel in-space activities, in support of the goal of Section 5 of the Executive Order.

OSC will be highly selective during this initial pilot phase. Submission of an expression of interest does not guarantee selection for the pilot phase evaluation cohort. OSC will prioritize missions that are critical to industry advancement, are sufficiently likely to occur, and represent high-utility use cases. Additionally, OSC anticipates that the pilot phase will require active involvement from participants.

This mission authorization pilot process will be voluntary and non-binding on all participants. Grant of an SCC during this pilot phase, on its own, will have no direct legal effect. OSC maintains discretion in all aspects of whether to grant an SCC, and FAA and FCC maintain discretion in determining whether and in what way, if any, to consider an SCC in their regulatory process. Therefore, participants are still required to independently satisfy all existing regulatory requirements for licensing by the FCC and FAA.

However, OSC’s ultimate goal is for the SCC process to speed up and simplify the authorization process for novel in-space activities. For example, information submitted through the SCC process could potentially be used as a

basis for satisfaction or waiver of FCC rules regarding matters such as strategies for mitigating orbital debris. Likewise, the SCC process could serve as an alternative for certain portions of the FAA’s payload reviews. OSC anticipates that this pilot phase may enable the FAA and FCC to determine, with more specificity, how they intend to use or incorporate the SCC process in their existing regulatory frameworks as a tool for streamlining.

Submission Instructions

Participation in this Call for Interest is entirely voluntary. Proprietary commercial information should be clearly marked as such, and OSC will handle all business-sensitive data in accordance with applicable federal confidentiality laws. Interested operators should submit a summary of their planned mission to Space.Certification@noaa.gov with the subject line: “Interest—Space Commerce Certification Proposal.”

Submissions must include the following information:

(1) The nominated entities full name, any affiliations, and contact information including name, email address, mailing address, and phone number;

(2) Evidence of U.S. entity ownership/operation, or in the case of an individual nominee, U.S. citizenship;

(3) Mission Concept & Timeline: A clear description of the intended operations, the space object(s) involved, and the targeted launch/deployment timeline;

(4) OSC Collaboration & Best Practices: A statement confirming the submitter’s commitment to working with OSC, in a manner as transparent to the public as possible, to develop best practices consistent with U.S. Government interests applicable to their intended operations.

Paperwork Reduction Act Burden Statement: A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act (PRA) of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0690–0038. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and

reviewing the information collection. All responses to this information collection are voluntary. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the NOAA PRA Office at NOAA.PRA@noaa.gov.

Privacy Act Statement: Authority. The collection of this information is authorized under 5 U.S.C. 301, Departmental regulations which authorizes the operations of an executive agency, including the creation, custodianship, maintenance and distribution of records, and 15 U.S.C. 1512, Powers and duties of Department.

Purpose. The collection of names and contact information is required in order for NOAA to evaluate expressions of interest.

Routine Uses. NOAA will use the submitted information for the purpose set forth above. The Privacy Act of 1974 authorizes disclosure of the information collected to NOAA staff for work-related purposes and for other purposes only as set forth in the Privacy Act and for routine uses published in the Privacy Act System of Records Notice COMMERCE/DEPT-11, Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees, available at <https://www.commerce.gov/opog/privacy/SORN/SORN-DEPT-11andtheSystemofRecordsNoticeCOMMERCE/DEPT-18>, Employees Personnel Files Not Covered by Notices of Other Agencies, available at <https://www.commerce.gov/opog/privacy/SORN/SORN-DEPT-18>.

The Director of the Office of Space Commerce, Assistant Secretary of Commerce Taylor Jordan, having reviewed and approved this document, authorizes Cody Knipfer, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Authority: 51 U.S.C. 50702.

Dated: August 18, 2026.

Cody Knipfer,

Federal Register Liaison, Office of Space Commerce.

[FR Doc. 2026-17016 Filed 8-19-26; 8:45 am]

BILLING CODE 3510-12-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete product(s) and service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: September 19, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489-1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51-2.4(b), Government personnel within the contracting activity have identified this as a product requirement not applicable to other Federal entities and has requested the Committee consider granting a purchase or distribution preference if the product is added to the Procurement List. See 71 FR 69536 (Dec. 1, 2006). If the Committee grants this request, the products listed below will not be available through the U.S. AbilityOne Commission's Commercial Distribution Program. The Committee will consider this request along with relevant comments received from interested parties.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):

6140-01-108-2159—Battery, Storage, 12V, Sealed Lead Acid, F2 Terminals, EA/1
6140-01-518-5195—Battery, Storage, 12V, Lead Acid (AGM), EA/1
6140-01-691-1088—Battery, Storage, 12V, Sealed Lead Acid, EA/1

Authorized Source of Supply: Eastern Carolina Vocational Center, Inc., Greenville, NC

Mandatory For: DEPT OF DEFENSE
Contracting Activity: DEPT OF DEFENSE, DLA LAND AND MARITIME

In accordance with 41 CFR 51-5.3(b), the Committee intends to add the services requirements listed below to the Procurement List as a mandatory purchase only for contracting activity at the locations listed with the proposed qualified nonprofit agency as the authorized source of supply. Prior to adding the service to the Procurement List, the Committee will consider other pertinent information, including information from Government personnel and relevant comments from interested parties regarding the Committee's intent to geographically limit this services requirement.

The following services(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Housekeeping Services

Mandatory For: US Air Force, North Star Inn, Joint Base Elmendorf-Richardson, AK, Admin Only, 7153 Fighter Dr, Joint Base Elmendorf-Richardson, AK

Authorized Source of Supply:

SourceAmerica, Vienna, VA

Contracting Activity: DEPT OF DEFENSE, FA5000 673 CONS LGC

Service Type: Department of Commerce Contract Closeout Service

Mandatory For: Department of Commerce, 1401 Constitution Ave. NW, Washington, DC, DC

Authorized Source of Supply: VisionCorps, Lancaster, PA

Contracting Activity: DEPARTMENT OF COMMERCE, ESO

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 5340-00-543-3557—Strap, Webbing, 80" x 1"

Authorized Source of Supply: The Charles Lea Center, Inc., Spartanburg, SC

Contracting Activity: DEPT OF DEFENSE, DLA LAND AND MARITIME

NSN(s)—Product Name(s):

8415-00-NSH-3021—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, XSS

8415-00-NSH-3022—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, SS

8415-00-NSH-3026—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, XSR

8415-00-NSH-3027—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, SR

8415-00-NSH-3028—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, MR

8415-00-NSH-3029—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, LR

8415-00-NSH-3030—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, XLR

8415-00-NSH-3032—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, SL

8415-00-NSH-3033—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, ML

8415-00-NSH-3034—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, LL

8415-00-NSH-3035—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, XLL

8415-00-NSH-3040—Drawers, Midweight Fire Retardant, ECWCS, Army, Desert Sand, XLXL

Authorized Source of Supply: New Horizons Rehabilitation Services, Inc., Auburn Hills, MI

Contracting Activity: DEPT OF DEFENSE, W6QK ACC-APG NATICK

NSN(s)—Product Name(s):

2320-01-398-7188—Combat Identification Kit, Armored M996, Platform, Brown

2320-01-398-7197—Combat Identification Kit, HMMWV Armored Avenger Platform, Brown

2350-01-421-7060—Combat Identification Kit, M578 VTR Platform, Tan

2590-01-392-1566—Combat Identification Kit, M60 AVLB Platform, Brown

2590-01-394-2531—Combat Identification Kit, M88A1 Platform, Brown

2590-01-394-2534—Combat Identification Kit, M1A1/M1A2 Abrams Platform, Brown

2590-01-394-5641—Combat Identification Assembly, M1A1/A2 Platform, Front Glacis, Brown

2590-01-394-8449—Combat Identification Assembly, M1A1/A2 Platform, Side & Rear, Brown

2590-01-398-5163—Combat Identification Kit, Platform, Brown

2590-01-398-5168—Combat Identification Kit, Joint Combat ID Marking System, Brown

2590-01-398-5170—Combat Identification Kit, M2A2 BFV Platform, Brown

2590-01-398-5171—Combat Identification Kit, M993 MLRS, Brown

2590-01-398-5173—Combat Identification Kit, M93 NBCRS Platform, Brown

2590-01-398-5178—Combat Identification Panel Kit, Brown

2590-01-398-5180—Combat Identification Kit, M109 Paladin Platform, Brown

2590-01-398-7190—Combat Identification Kit, HMMWV TOW Platform, Brown

2590-01-398-8089—Combat Identification Assembly, HMMWV Platform, Front, Brown

2590-01-501-9527—Combat Identification Kit, Stryker Multi-Platform, Brown

2590-01-507-2544—Combat Identification Kit, Stryker MCV, MEV, NBCRV Platform, Brown

Authorized Source of Supply: Crossroads

Rehabilitation Center, Inc., Indianapolis, IN

Contracting Activity: DEPT OF DEFENSE, W4GG HQ US ARMY TACOM

Service(s)

Service Type: Administrative Service

Mandatory For: US Department of Homeland Security, Customs and Border Protection, Otay Mesa, San Ysidro and San Diego Port of Entry SENTRI Enrollment Centers, San Diego, CA, 610 W Ash Street, Suite 1200, San Diego, CA

Authorized Source of Supply: Job Options, Inc., San Diego, CA

Contracting Activity: HOMELAND SECURITY, DEPARTMENT OF, BORDER ENFORCEMENT CTR DIV

Service Type: Furniture Design and Configuration Services

Mandatory For: USPFO Pennsylvania, Pennsylvania National Guard, Fort Indiantown Gap, PA, 1167 Utility Road, Fort Indiantown Gap, PA

Authorized Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: DEPT OF DEFENSE, W7NX USPFO ACTIVITY PA ARNG

Service Type: Laundry and Dry Cleaning Service

Mandatory For: US Army, Joint Base Lewis-McChord, Joint Base Lewis-McChord, WA, Building 2015, Box 339500, Joint Base Lewis-McChord, WA

Authorized Source of Supply: Northwest Center, Seattle, WA

Contracting Activity: DEPT OF DEFENSE, W6QM MICC-JB LEWIS-MC CHORD

Service Type: Mailroom Operation

Mandatory For: Internal Revenue Service, Internal Revenue Service Mailroom, 12309 N MoPac Expressway, Austin, TX, 12309 N MoPac Expressway, Austin, TX; Internal Revenue Service, Internal Revenue Service Mailroom, 300 East 8th Street, Austin, TX, 300 East 8th Street, Austin, TX

Authorized Source of Supply: Austin Task, Inc., Austin, TX

Contracting Activity: TREASURY, DEPARTMENT OF THE, NATIONAL OFFICE—PROCUREMENT OBO

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026-16964 Filed 8-19-26; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be

furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* September 20, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489-1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Additions

On May 7, 2026 (91 FR 24844); May 21, 2026 (91 FR 29943); and July 2, 2026 (91 FR 40518), the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) published an initial notice of proposed additions to the Procurement List. The Committee determined that the services listed below are suitable for procurement by the Federal Government and has added these services to the Procurement List as a mandatory purchase for the contracting activities listed. In accordance with 41 CFR 51-5.3(b), the mandatory purchase requirement is limited to the contracting activities at the locations listed, and in accordance with 41 CFR 51-5.2, the Committee has authorized the nonprofit agencies listed as the authorized source of supply.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) added to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Custodial Service

Mandatory For: US Air Force, Mountain Home AFB, ID, 366 Gunfighter Ave., MOUNTAIN HOME AFB, ID

Authorized Source of Supply: Nobis

Enterprises, Inc., Marietta, GA
Contracting Activity: DEPT OF DEFENSE, FA4897 366 CONS LGCP

Service Type: Custodial Service

Mandatory For: National Park Service, Santa Monica Mountains National Recreation Area, Calabasas, CA, 26876 Mulholland Highway, Calabasas, CA

Authorized Source of Supply: Goodwill Industries of Southern California, Panarama City, CA

Contracting Activity: DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE

Service Type: Courier Service

Mandatory For: US Department of Homeland Security, US Immigration and Customs Enforcement, El Paso Field Office, El Paso TX, 11541 Montana Avenue, El Paso, TX

Authorized Source of Supply: Tresco, Inc., Las Cruces, NM

Contracting Activity: DEPARTMENT OF HOMELAND SECURITY, U.S. Immigration and Customs Enforcement

Deletions

On July 16, 2026 (91 FR 43625), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following service(s) are deleted from the Procurement List:

Service(s)

Service Type: Custodial service

Mandatory For: National Park Service, NE Region, Frederick Law Olmsted Historic Site Barn and House, John Fitzgerald Kennedy NHS and Longfellow House, Washington's Headquarters NHS, Brookline, MA, 99 Warren Street, Brookline, MA

Authorized Source of Supply: Community Workshops, Inc., Boston, MA

Contracting Activity: DEPARTMENT OF THE INTERIOR, NER SUPPLY MABO(45000)

Service Type: Janitorial/Custodial

Mandatory For: Fort Collins Federal Office Building, 301 South Howes Street, Fort Collins, CO, 301 South Howes Street, Fort Collins, CO

Contracting Activity: GENERAL SERVICES ADMINISTRATION, GSA/PBS/FACILITIES MGMT, ACQUISITION MGMT & REAL ESTATE ACQUISITION

Service Type: Custodial and Related Services

Mandatory For: GSA PBS Region 9, Carson City Federal Building, Carson City, NV, 705 N Plaza, Carson City, NV

Authorized Source of Supply: Bona Fide Conglomerate, Inc., El Cajon, CA

Contracting Activity: GENERAL SERVICES ADMINISTRATION, PBS R9 AMD SERVICES CONTRACTING BRANCH

Service Type: Custodial Services

Mandatory For: William R. Burke Courthouse: Third Street and Lufkin Avenue, NULL, NULL, Lufkin, TX

Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–16966 Filed 8–19–26; 8:45 am]

BILLING CODE 6353–01–P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC–003]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an existing information collection for OMB review and approval and requests public

review and comment on the submission. The agencies received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by September 21, 2026.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Carla Cooper, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.

- *Email:* fedreg@dfc.gov.

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT:

Agency Submitting Officer: Carla Cooper, (202) 926–7241.

SUPPLEMENTARY INFORMATION: The agency received no comments in response to the sixty (60) day notice published in **Federal Register** volume 91, No. 111 page 35183 on June 10, 2026. Upon publication of this notice, DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Application for Political Risk Insurance.

Type of Review: Extension without change of a currently approved information collection.

Agency Form Number: DFC–003.

OMB Form Number: 3015–003.

Frequency: Once per investor per project.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals.

Total Estimated Number of Annual Number of Respondents: 220.

Estimated Time per Respondent: 1.5 hours.

Total Estimated Number of Annual Burden Hours: 330 hours.

Abstract: The Application for Political Risk Insurance will be the principal document used by DFC to determine the investor's and the project's eligibility for political risk insurance and will collect information for insurance underwriting analysis.

Lisa Wischkaemper,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2026–16968 Filed 8–19–26; 8:45 am]

BILLING CODE 3210–02–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 23, 2026, 1 to 4 p.m. MDT.

ADDRESSES: This meeting will be held virtually. To receive the virtual access information, please contact Bridget Maestas, Northern New Mexico Citizens Advisory Board (NNMCAB) Executive Director, at the telephone number or email listed below at least two days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Bridget Maestas, NNMCAB Executive Director, by Phone: 505–709–7466 or Email: bridget.maestas@em.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: At the request of the Assistant Secretary or Field Managers, the Board may provide community-based advice and recommendations concerning any EM program activities, such as clean-up activities and environmental restoration; waste management and disposition; excess facilities; future land use and long-term stewardship; communications; and budget priorities. The Board also provides an avenue to fulfill public participation requirements outlined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please contact Bridget Maestas for the most current agenda).

- Chair/Vice-Chair Elections for Fiscal Year 2027
- Presentations to the Board
- Agency Updates

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please contact Bridget Maestas. The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Bridget Maestas at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/em/nnmcab/northern-new-mexico-citizens-advisory-board>.

Signing Authority: This document of the Department of Energy was signed on August 18, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 18, 2026.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026–17008 Filed 8–19–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–1056–000.

Applicants: Northern Border Pipeline Company.

Description: 4(d) Rate Filing: Net Penalty Revenue Timeline Update to be effective 9/15/2026.

Filed Date: 8/13/26.

Accession Number: 20260813–5115.

Comment Date: 5 p.m. ET 8/25/26.

Docket Numbers: RP26–1057–000.

Applicants: Great Basin Gas Transmission Company.

Description: Compliance filing: NAESB Version 4.0 to be effective January 1, 2027 to be effective 1/1/2027.

Filed Date: 8/14/26.

Accession Number: 20260814–5000.

Comment Date: 5 p.m. ET 8/26/26.

Docket Numbers: RP26–1058–000.

Applicants: Trunkline Gas Company, LLC.

Description: 4(d) Rate Filing: NRA Filing—Sabine Pass Liquefaction, LLC to be effective 9/1/2026.

Filed Date: 8/14/26.

Accession Number: 20260814–5036.

Comment Date: 5 p.m. ET 8/26/26.

Docket Numbers: RP26–1059–000.

Applicants: Viking Gas Transmission Company.

Description: Compliance filing: Conforming Displacement Agreements—Freepoint and Concord to be effective N/A.

Filed Date: 8/17/26.

Accession Number: 20260817–5061.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: RP26–1060–000.

Applicants: Millennium Pipeline Company, LLC.

Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.

Filed Date: 8/17/26.

Accession Number: 20260817–5101.

Comment Date: 5 p.m. ET 8/31/26.

Any person desiring to intervene, to protest, or to answer a complaint in any

of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP22-824-002.

Applicants: Young Gas Storage Company, Ltd.

Description: Compliance filing: Petition to Amend Docket No. RP22-824 Stipulation and Agreement to be effective N/A.

Filed Date: 8/13/26.

Accession Number: 20260813-5091.

Comment Date: 5 p.m. ET 8/25/26.

Docket Numbers: RP22-825-003.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Compliance filing: Petition to Amend Docket No. RP22-825 Stipulation and Agreement to be effective N/A.

Filed Date: 8/13/26.

Accession Number: 20260813-5092.

Comment Date: 5 p.m. ET 8/25/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: August 17, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-16978 Filed 8-19-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Electric Corporate filings:

Docket Numbers: EC26-152-000.

Applicants: Brookfield Corporation, Brookfield Corporation Ltd.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Brookfield Corporation, et al.

Filed Date: 8/14/26.

Accession Number: 20260814-5266.

Comment Date: 5 p.m. ET 9/4/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26-97-000;

QF82-202-001.

Applicants: US BORAX INC.

Description: Petition for Temporary Waiver of US Borax Inc., et al.

Filed Date: 8/10/26.

Accession Number: 20260810-5172.

Comment Date: 5 p.m. ET 9/9/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER13-738-015; ER11-3097-019; ER10-1186-018; ER12-421-009; ER11-2731-009; ER23-1279-004; ER10-3169-017.

Applicants: Michigan Power Limited Partnership, DTE Energy Services, Inc., Heritage Stoney Corners Wind Farm I, LLC, Heritage Garden Wind Farm I, LLC, DTE Energy Supply, LLC, DTE Energy Trading, Inc., DTE Electric Company.

Description: Notice of Non-Material Change in Status of DTE Electric Company, et al.

Filed Date: 7/29/26.

Accession Number: 20260729-5190.

Comment Date: 5 p.m. ET 8/19/26.

Docket Numbers: ER23-167-003; ER23-168-004; ER23-166-003; ER24-1420-005; ER24-1421-005.

Applicants: Superstition Energy Storage LLC, Sierra Estrella Energy Storage LLC, Energy Storage Resources, LLC, Cross Town Energy Storage, LLC, Cranberry Point Energy Storage, LLC.

Description: Notice of Change in Status of Cranberry Point Energy Storage, LLC, et al.

Filed Date: 8/14/26.

Accession Number: 20260814-5267.

Comment Date: 5 p.m. ET 9/4/26.

Docket Numbers: ER26-2562-001.

Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Response to Deficiency Letter (PMPA NITSA) to be effective 8/1/2026.

Filed Date: 8/13/26.

Accession Number: 20260813-5165.

Comment Date: 5 p.m. ET 9/3/26.

Docket Numbers: ER26-2623-001.

Applicants: Milltown Onsite Generation, LLC.

Description: Tariff Amendment: Response to Deficiency Letter (ER26-2623-) to be effective 6/26/2026.

Filed Date: 8/14/26.

Accession Number: 20260814-5238.

Comment Date: 5 p.m. ET 9/4/26.

Docket Numbers: ER26-3528-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to GIA, SA No. 7477; Project Identifier No. AF2-019 to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817-5060.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26-3530-000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): AL Solar I (Walker Springs III) LGIA Filing to be effective 8/4/2026.

Filed Date: 8/17/26.

Accession Number: 20260817-5117.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26-3531-000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: 205(d) Rate Filing: American Transmission Company LLC submits tariff filing per 35.13(a)(2)(iii): 2026-08-17 Revisions to Attachment FF-ATCLLC re: Show Cause Order to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817-5124.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26-3532-000.

Applicants: Zeta Solar, LLC.

Description: Initial Rate Filing: Market-Based Rate Application to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817-5134.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26-3533-000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): Revisions to Establish ISO-NE as the Asset Condition Reviewer (Part 1 of 2) to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5143.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3534–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): Revisions to Establish ISO–NE as the Asset Condition Reviewer (Part 2 of 2) to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5152.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3535–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original GIA, Service Agreement No. 8041; NC006 to be effective 7/31/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5159.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3536–000.

Applicants: Big Sandy Peaker Plant, LLC.

Description: Tariff Amendment: Notice of Cancellation and Request for Waiver, MBR Tariff to be effective 12/31/9998.

Filed Date: 8/17/26.

Accession Number: 20260817–5162.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3537–000.

Applicants: Exelon Business Services Company, LLC, PJM Interconnection, L.L.C., PECO Energy Company.

Description: Compliance filing: PECO Energy Company submits tariff filing per 35: PJM TOs Partial Compliance Filing on Interim NITS Rates to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5175.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3538–000.

Applicants: Grays Harbor Energy LLC.

Description: 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5179.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3539–000.

Applicants: Judith Gap Energy LLC.

Description: 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5181.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3540–000.

Applicants: Google Energy LLC.

Description: 205(d) Rate Filing: Market-Based Rate Tariff Revision Out-of-Time to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5182.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3541–000.

Applicants: Overnight Solar LLC.

Description: Initial Rate Filing:

Application for MBR Authorization and Request for Waivers and Blanket Approvals to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5184.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3542–000.

Applicants: Millican Solar Energy LLC.

Description: 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5185.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3543–000.

Applicants: Prineville Solar Energy LLC.

Description: 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5187.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3544–000.

Applicants: Spindle Hill Energy LLC.

Description: 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5191.

Comment Date: 5 p.m. ET 9/8/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov*.

Dated: August 17, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16977 Filed 8–19–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2026–0334; FRL–13199–06–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses (June 2026)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency's receipt of and solicits comments on applications to register new pesticide products containing currently registered active ingredients that would entail a change in use pattern. The Agency is providing this notice in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA uses the month and year in the title to identify when the Agency compiled the applications identified in this notice of receipt Unit II. of this document identifies certain applications received in 2025 and 2026 that are currently being evaluated by EPA, along with information about each application, including when it was received, who submitted the application, and the purpose of the application.

DATES: Comments must be received on or before September 21, 2026.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the *EPA File Symbol* or the *EPA Registration Number* of interest as shown in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting on and visiting the docket, along with more information about dockets generally, are available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- RD (Registration Division) (Mail Code 7505T); Charles Smith; main

telephone number: (202) 566-1030;
email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA is taking this action pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(c)(4), and 40 CFR 152.102.

C. What action is the Agency taking?

EPA is hereby providing notice of receipt and opportunity to comment on applications to register new pesticide products containing currently registered active ingredients that would entail a change in use pattern. EPA provides a notice of receipt on a monthly basis, using the month and year in the title to help distinguish one document from the other. This document identifies the applications that were received since the last notice that was issued and are currently being evaluated by EPA in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (<https://www.epa.gov/pesticide-registration/public-participation-process-registration-actions>).

D. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your

comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Applications To Register New Uses

This unit provides the following information about each application received: The EPA File Symbol or Registration number(s); EPA docket ID number for the application; Name and address of the applicant; Name of the active ingredient, product type and proposed uses; and the division to contact for that application. Additional information about the application may also be available in the docket for the application as identified in this unit.

- **EPA Registration Numbers:** 59639-76; 59639-35. **Docket ID number:** EPA-HQ-OPP-2026-3599. **Applicant:** IR-4 Project, 1730 Varsity Drive, Suite 210, Raleigh, NC 27606. **Active ingredient:** Fenpropathrin. **Product type:** Insecticide. **Proposed use:** Barley subgroup 15-22B; *brassica*, leafy greens, subgroup 4-16B; cherry subgroup 12-12A; cottonseed subgroup 20C at 1 ppm; kohlrabi at 3 ppm; nut, tree, group 14-12; peach subgroup 12-12B; plum subgroup 12-12C; tropical and subtropical, small fruit, edible peel, subgroup 23A; tropical and subtropical, small fruit, inedible peel, subgroup 24A; turnip, roots; vegetable, *brassica*, head and stem, group 5-16; vegetable, legume, pea, edible podded, subgroup 6-22B; vegetable, legume, pea, succulent shelled, subgroup 6-22D; vegetable, tuberous and corm, except potato, subgroup 1D. **Date of receipt:** October 24, 2025. **Contact:** RD.

- **EPA File Symbol:** 87317-R. **Docket ID number:** EPA-HQ-OPP-2026-5512. **Applicant:** Huvepharma, Inc., 3360 Maury Avenue, St. Louis, MO 63116. **Active ingredient:** Spinosad. **Product type:** Insecticide. **Proposed use:** Direct application to cattle via projectile for control of horn flies. **Date of receipt:** August 27, 2025. **Contact:** RD.

- **EPA Registration Numbers:** 1021-2871, 1021-2870, 1021-2869, 1021-2868. **Docket ID number:** EPA-HQ-OPP-2026-3730. **Applicant:** McLaughlin Gormley King Company, d/b/a MGK, 7325 Aspen Lane N, Minneapolis, MN 55428. **Active ingredient:** Veratrine. **Product type:** Insecticide. **Proposed use:** New indoor/outdoor non-food use in or on aircraft cargo areas, animal quarters, backyards, camp sites/campgrounds, deer pens and enclosures, feed lots, food manufacturing and warehousing establishments, food processing plants, food service establishments, greenhouses, mink production facilities, ornamental landscaping, outdoor dining areas, parks and athletic fields,

recreational areas, restaurants, schools, shipping containers, supermarkets and grocery stores, trees, and wild animal parks. **Date of receipt:** May 11, 2026. **Contact:** RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 12, 2026.

Elizabeth Vizard,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2026-16971 Filed 8-19-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13575-01-OA]

Nominations Request for the Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) requests public nominations from qualified candidates to be considered for appointment to its Good Neighbor Environmental Board (GNEB) to fill approximately 11-15 vacancies.

DATES: Nominations should be submitted by October 5, 2026.

FOR FURTHER INFORMATION CONTACT: For information about this **Federal Register** notice please contact David B. Neill, Designated Federal Officer (DFO), by telephone/voicemail (202) 564-2885, or email at neill.david@epa.gov.

SUPPLEMENTARY INFORMATION: The GNEB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463. GNEB was created in 1992 by the Enterprise for the Americas Initiative Act, Public Law 102-532, 7 U.S.C. 5404. Implementing authority was delegated to the Administrator of the Environmental Protection Agency (EPA) under Executive Order 12916 and continued under the authority of Executive Order 14354, dated September 29, 2025.

The GNEB is charged by statute with submitting an annual report to the President on the need for implementation of environmental and infrastructure projects within the states contiguous to the United States (U.S.)-Mexico border. The statute calls for the GNEB to have representatives from U.S. Government agencies; the governments of the states of Arizona, California, New Mexico, and Texas; and tribal and private organizations with experience in environmental and infrastructure issues along the U.S.-Mexico border. Members

are appointed by the EPA Administrator for a two-year term. The GNEB meets approximately three times annually either in person or via video/teleconference, and the average workload for committee members is approximately 10 to 15 hours per month. Members serve on the committee in a voluntary capacity. Although we are unable to offer compensation or an honorarium, members may receive travel and per diem allowances, according to applicable federal travel regulations and the agency's budget.

The EPA is seeking nominations from a variety of sectors along the U.S.-Mexico border including representatives from business and industry, academia, non-governmental organizations, and local, state, county, and tribal governments.

According to the mandates of FACA, committees are required to have balanced points of view across a broad range of constituencies, sectors, and groups.

To learn more about the GNEB, please visit <https://www.epa.gov/faca/gneb>.

Request for Nominations:

Nominations for individuals with expertise or extensive experience in the following disciplines are requested:

- Representative of a sector or group that helps to shape border-region environmental policy or represents a group that is affected by border-region environmental policy;
- Extensive professional knowledge and experience with the issues on the southern border, including the bi-national dimension in State and Tribal waste reuse initiatives and scrap industries in the border region including food, rubber, critical minerals, and precious metals.
- Demonstrates senior level experience that will bring a new and relevant approach to the board's deliberations.
- Ability to work in a consensus building process with a wide range of representatives from various constituencies.
- Ability to contribute approximately 10 to 15 hours per month to the GNEB's activities, that include attending full committee, administrative, and working group meetings and participating in the development of advice letters or researching topics to publish reports.
- Demonstrate the potential for active and constructive involvement in the GNEB's work.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals in the areas of expertise described above for consideration to

serve on the GNEB. Individuals may self-nominate.

- To be considered, the following information should be provided on the nomination: contact information for the person making the nomination; contact information for the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's *curriculum vitae*; and a biographical sketch (if available) of the nominee indicating current position, educational background; research activities; sources of research funding for the last two years; and recent service on other national advisory committees or national professional organizations. Nominees will be contacted and asked to provide any updated or missing information from the nomination form. To help the Agency evaluate the effectiveness of its outreach efforts, please indicate how you learned of this nomination opportunity. The Federal Advisory Committee Management Branch (FACMB) will acknowledge receipt of nominations and address any questions the nominee has regarding membership. Nominations should be submitted in time to arrive no later than October 5, 2026. Persons who have questions about the nomination process should contact the DFO identified in the **FOR FURTHER INFORMATION CONTACT** section.

- Nominees from the academic sector should also provide a letter of support authorizing the applicant to represent the views of a particular school/college (e.g., School of Environmental Science or College of Engineering) within the institution's system.

- Please be aware that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed for a two-year term. For appointment consideration, interested nominees should submit the application materials electronically via email to David B. Neill at neill.david@epa.gov with the subject line GNEB, COMMITTEE APPLICATION PACKAGE 2026 for (Name of Nominee) by (Name of Nominator).

Michael Hardy,

Acting Branch Chief, Federal Advisory Committee Management Branch.

[FR Doc. 2026-16931 Filed 8-19-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2026-6172; FRL-13572-01-OGC]

Proposed Settlement Agreement, Unreasonable Delay Claim Regarding Natural Resources Defense Council's Petition To Revoke Tolerances for Neonicotinoid Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Environmental Protection Agency (EPA) Administrator's March 18, 2022, Memorandum entitled *Consent Decrees and Settlement Agreements to Resolve Environmental Claims Against the Agency*, notice is hereby given of a proposed settlement agreement that resolves *In re Natural Resources Defense Council, Inc.*, 25-1251 (D.C. Cir.), a case in the U.S. Court of Appeals for the District of Columbia that alleges EPA unreasonably delayed in responding to a petition to revoke all tolerances for residues of neonicotinoid pesticides ("neonics") in or on food.

DATES: Written comments on the proposed settlement agreement must be received by September 21, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2026-6172 online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the "Additional Information about Commenting on the Proposed Settlement Agreement" heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Angela Huskey, Pesticides and Toxic Substances Law Office, Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2892; email address: huskey.angela@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2026-6172) contains a

copy of the proposed settlement agreement. The official public docket is available for public viewing at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

The electronic version of the public docket for this action contains a copy of the proposed settlement agreement and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents to the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

II. Additional Information About the Proposed Settlement Agreement

On May 4, 2020, Natural Resources Defense Council (NRDC) petitioned EPA, under the Federal Food, Drug, and Cosmetic Act (FFDCA), to revoke all tolerances for residues of five neonic on or in food—acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam. Plaintiffs subsequently filed a mandamus petition on October 29, 2025, alleging that EPA's failure to issue a final decision on the FFDCA petition constitutes an unreasonable delay under the All Writs Act, 28 U.S.C. 1651(a), and the Administrative Procedure Act ("APA"), 5 U.S.C. 555(b).

The proposed settlement agreement states that no later than April 30, 2027, EPA must issue a final decision on Petitioner's administrative petition under 21 U.S.C. 346a(d)(4)(A). Further, the proposed settlement agreement states that within 15 days of the execution of the proposed settlement agreement, the parties will file a joint motion to continue holding the litigation in abeyance pending the April 30, 2027 deadline for EPA's issuance of a final decision on the administrative petition.

For a period of thirty (30) days following the date of publication of this publication, the Agency will accept written comments relating to the proposed settlement agreement from persons who are not named as parties to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that

indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the APA or FFDCA. Unless EPA or the Department of Justice determines that consent should be withdrawn, the terms of the proposed settlement agreement will be affirmed.

III. Additional Information About Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2026-6172 via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you if EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, EPA may not be able to consider your comment.

Use of the <http://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

Dated: August 13, 2026.

Randolph L. Hill,

Associate General Counsel.

[FR Doc. 2026-16938 Filed 8-19-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2026-0333; FRL-13200-06-OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients (June 2026)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency's receipt of and solicits comments on applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. The Agency is providing this notice in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA uses the month and year in the title to identify when the Agency compiled the applications identified in this notice of receipt Unit II. of this document identifies certain applications received in 2025 that are currently being evaluated by EPA, along with information about each application, including when it was received, who submitted the application, and the purpose of the application.

DATES: Comments must be received on or before September 21, 2026.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the *EPA File Symbol* or the *EPA Registration Number* of interest as shown in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit

electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting on and visiting the docket, along with more information about dockets generally, are available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- AD (Antimicrobials Division) (Mail Code 7510M); Kristin Willis, main telephone number: (202) 566-0793; email address: ADFRNotices@epa.gov.
- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.
- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566-1030; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA is taking this action pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(c)(4), and 40 CFR 152.102.

C. What action is the Agency taking?

EPA is hereby providing notice of receipt and opportunity to comment on applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Notice of receipt of these applications does not imply a decision by the Agency on these applications. The applications identified in this document were received since the last notice that was issued and are currently being evaluated by EPA in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (<https://www.epa.gov/pesticide->

[registration/public-participation-process-registration-actions](https://www.epa.gov/pesticide-registration/public-participation-process-registration-actions)).

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Registration Applications Received

This unit provides the following information about the applications received: The EPA File Symbol or Registration number(s); EPA docket ID number for the application; Name and address of the applicant; Name of the active ingredient, product type and proposed uses; and the division to contact for that application. Additional information about the application may also be available in the docket for the application as identified in this unit.

- *EPA File Symbols:* 33906-GR; 33906-GN. *Docket ID number:* EPA-HQ-OPP-2026-1784. *Applicant:* Nissan Chemical Corporation, 5-1, Nihonbashi 2-Chome, Chuo-ku, Tokyo 103-6119, Japan. *Product names:* Iptriaazopyrid Technical; Iptriaazopyrid 100 g/L SC. *Active ingredient:* Herbicide—Iptriaazopyrid at 98.5%; 9.1%. *Proposed use:* Rice. *Date of receipt:* November 26, 2025. *Contact:* RD.

- *EPA File Symbol:* 52991-LR. *Docket ID number:* EPA-HQ-OPP-2026-5413. *Applicant:* Bedoukian Research, Inc., 6 Commerce Drive, Danbury, CT 06810. *Product name:* Bedoukiab z-9-Hexadecenal Technical Pheromone. *Active ingredient:* SCLP pheromone—z-9-Hexadecenal at 90%. *Proposed use:* Mating Disruptor (used as an attractant for incorporation into end-use products, intended to control lepidopteran species). *Date of receipt:* October 21, 2025. *Contact:* BPPD.

- *EPA File Symbol:* 97144-U. *Docket ID number:* EPA-HQ-OPP-2026-4786. *Applicant:* ReliOx Corporation, 8475 Western Way, Suite 155, Jacksonville, FL 32256. *Product name:* Whiff!. *Active*

ingredient: Styrene, divinylbenzene and ethyl styrene copolymer, chloromethyl trimethylamine (26.148%) as an activator for sodium chlorite to generate chlorine dioxide. *Product type:* Antimicrobial Pesticide. *Proposed uses:* Non-food use, indoor disinfectant deodorizer, bactericide and virucide for residential and commercial use. *Date of receipt:* May 20, 2025. *Contact:* AD. *Authority:* 7 U.S.C. 136 *et seq.*

Dated: August 13, 2026.

Elizabeth Vizard,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2026-16974 Filed 8-19-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1272; FR ID 362738]

Information Collection Being Submitted to the Office of Management and Budget for Emergency Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments and recommendations for the information collection should be submitted on or before September 21, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

The Commission is requesting emergency OMB processing of the information collection requirement(s) contained in this notice and has requested OMB approval no later than 35 days after the collection is received at OMB. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under

Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of Commission ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the Commission’s submission to OMB will be displayed.

OMB Control Number: 3060–1272.

Title: 3.7 GHz Band Space Station Operator Transition Plans; 3.7 GHz Band Incumbent Earth Station Lump Sum Payment Elections.

Form Number: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities.

Estimated Number of Respondents and Responses: 3,003 respondents and 3,003 responses.

Estimated Time per Response: 2,720 hours per eligible space station transition plan; 32 hours per incumbent earth station lump sum payment election.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), and 309.

Estimated Total Annual Burden: 104,160 hours.

Total Annual Costs: \$540,000.

Needs and Uses: On July 22, 2026, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enable next-generation wireless networks, the Federal Communications Commission (Commission) adopted a Report and Order, FCC 26–46 (*Upper C-band R&O*) in which it reformed the use of the 4.0–4.2 GHz portion of the C-Band. The 4.0–4.2 GHz band currently is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service.

Domestically, space station operators use the 4.0–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States. The *Upper C-band R&O*

calls for the relocation of existing FSS operations in the C-band, making 160 megahertz (3.98–4.14 GHz) available for flexible-use terrestrial wireless service throughout the contiguous United States through a Commission-administered public auction of licenses that must be completed by July 4, 2027, pursuant to a statutory mandate in the One Big Beautiful Bill Act, Public Law 119–21, section 40002(b)(2).

The Commission adopted a robust transition schedule to achieve an expeditious clearing and relocation of FSS operations and ensure that a significant amount of spectrum is made available quickly for next-generation wireless deployments, while also ensuring effective accommodation of relocated incumbent users. Pursuant to the *Upper C-band R&O*, all incumbent FSS operations in the contiguous United States must clear the 4.0–4.16 GHz portion of the C-band by December 30, 2030, or June 30, 2031, to ensure a timely transition process. The December 30 deadline applies to the top 75 Partial Economic Areas (PEAs) and aligns with the Federal Aviation Administration’s first deadline to retrofit aircraft radio altimeters. The June 30 deadline applies to all other areas.

The Commission concluded in the *Upper C-band R&O* that, before the public auction of new licenses commences, it is appropriate for potential bidders to: (1) know when they will get access to the spectrum in the 3.98–4.14 GHz portion of the C-band that is currently occupied by incumbent FSS space station operators and earth stations; and (2) have an estimate of how much they may be required to pay for incumbent relocation costs and incentive payments should they become Upper C-band wireless licensees. New Upper C-band wireless licensees are required to pay for the reasonable and necessary relocation costs of incumbent space station and incumbent earth station operators that are required to clear the 4.0–4.16 GHz portion of the C-band.

To facilitate the provision of this information to potential auction bidders, the Commission is seeking approval for a modified information collection to permit it to collect the following information from incumbents as adopted in the *Upper C-band R&O*:

Transition Plans

The *Upper C-band R&O* requires each eligible space station operator to submit to the Commission by November 5, 2026, and make available for public review, a detailed transition plan describing the necessary steps and estimated costs for the eligible space

station operator to clear its existing operations in the 4.0–4.16 GHz portion of the C-band in the contiguous United States and its individual timeline for doing so. An eligible space station operator may make changes to its transition plan to update certain information or cure any defects that may be identified by the Commission or by relevant stakeholders during a public comment window.

Incumbent Earth Station Lump Sum Payment Elections

The *Upper C-band R&O* provides an incumbent earth station operator with the option of: (1) accepting reimbursement payments for its reasonable and necessary relocation costs for the transition; or (2) in lieu of actual relocation costs, opting out of the formal relocation process and accepting a lump sum reimbursement payment for its incumbent earth stations on a per-site basis based on the average, estimated cost of relocating such incumbent earth stations. The *Upper C-band R&O* directs the Wireless Telecommunications Bureau to announce the lump sum that will be available per incumbent earth station as well as the process for electing lump sum payments and requires that, no later than 60 days after the Wireless Telecommunications Bureau announces the lump sum payment amounts, an incumbent earth station operator that wishes to receive a lump sum payment make an irrevocable lump sum payment election that will apply to such earth stations in the contiguous United States.

This information collection will serve as the starting point for planning and managing the process of efficiently and expeditiously clearing the 4.0–4.16 GHz portion of the C-band, so that this spectrum can be auctioned for flexible-use service licenses.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–16995 Filed 8–19–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0386; OMB 3060–0609; OMB 3060–1103; OMB 3060–1320; FR ID 362822]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before October 19, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

OMB Control Number: 3060–0386.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; §§ 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; § 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; § 73.3700(b)(5), Post Auction Licensing; § 73.3700(f).

Form Number: N/A.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 5,537 respondents and 5,537 responses.

Estimated Time per Response: 0.50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act); and sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,353 hours.

Total Annual Cost: \$1,834,210.

Needs and Uses: The Commission is requesting a three year extension from the Office of Management and Budget for the information collections that are approved under this collection. The data contained in the information collection is used by FCC staff to determine whether to grant and/or accept the requested special temporary authority (or other request for FCC action), waiver request, required notification, informal filing, application filings or other non-form submission. FCC staff will review for compliance with legal and technical regulations, including but not limited to ensuring that impermissible interference will not be caused to other stations.

OMB Control Number: 3060–0609.

Title: Section 76.934(d), Petitions for Extension of Time.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, local, or tribal governments.

Number of Respondents and Responses: 20 respondents; 10 responses.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Estimated Time per Response: 4 hours.

Total Annual Burden: 80 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained

under 47 CFR 76.934(d) states that small cable systems may obtain an extension of time to establish compliance with rate regulations provided that they can demonstrate that timely compliance would result in severe economic hardship. Requests for the extension of time should be addressed to the local franchising authorities ("LFAs") concerning rates for basic service tiers.

OMB Control Number: 3060–1103.

Title: Section 76.41 Franchise Application Process.

Type of Review: Extension of a currently approved collection.

Form Number: N/A.

Respondents: State, local or tribal government, Business or other for-profit entities.

Number of Respondents and Responses: 22 respondents and 40 responses.

Estimated Hours per Response: 0.5 to 4 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure requirement.

Total Annual Burden: 90 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements are as follows: 47 CFR 76.41(b) requires a competitive franchise applicant to include the following information in writing in its franchise application, in addition to any information required by applicable state and local laws:

- (1) The applicant's name;
- (2) The names of the applicant's officers and directors;
- (3) The business address of the applicant;
- (4) The name and contact information of a designated contact for the applicant;
- (5) A description of the geographic area that the applicant proposes to serve;
- (6) The PEG channel capacity and capital support proposed by the applicant;
- (7) The term of the agreement proposed by the applicant;
- (8) Whether the applicant holds an existing authorization to access the public rights-of-way in the subject franchise service area;
- (9) The amount of the franchise fee the applicant offers to pay; and
- (10) Any additional information required by applicable state or local laws.

The information collection requirements contained in 47 CFR 76.41(d) states when a competitive franchise applicant files a franchise application with a franchising authority and the applicant has existing authority to access public rights-of-way in the

geographic area that the applicant proposes to serve, the franchising authority grant or deny the application within 90 days of the date the application is received by the franchising authority. If a competitive franchise applicant does not have existing authority to access public rights-of-way in the geographic area that the applicant proposes to serve, the franchising authority must perform grant or deny the application within 180 days of the date the application is received by the franchising authority. A franchising authority and a competitive franchise applicant may agree in writing to extend the 90-day or 180-day deadline, whichever is applicable.

OMB Control Number: 3060–1320.

Title: Section 73.1750,

Discontinuance of operation; § 73.3549, Request for extension of time to operate without required monitors, indicating instruments, and EAS encoders and decoders; § 73.3550, Requests for new or modified call sign assignments.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 300 respondents and 300 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response:

Recordkeeping requirement; on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 150 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission is requesting an extension of this information collection in order to receive approval/clearance from the Office of Management and Budget (OMB) for three years. Other information collection requirements that are covered under this collection have not changed since last approved by OMB.

47 CFR 73.1750 requires that the licensee of each station provide a notification to the FCC in a Cancellation Application via the Commission's Licensing and Management System (LMS) of the permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee must forward the station license and other instruments of

authorization to the FCC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, for cancellation.

47 CFR 73.3549 requires that requests for extension of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the EAS codes and Attention Signal should be made to the FCC by electronically filing via LMS. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

47 CFR 73.3550(a) requires that all requests for new or modified call sign assignments for radio and television broadcast stations be made via LMS with the FCC. Paragraph (j) provides that a change in call sign assignment will be made effective on the date specified in the Call Sign Request Authorization generated by LMS acknowledging the assignment of the requested new call sign and authorizing the change.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–16993 Filed 8–19–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 362766]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the

information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before October 19, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Section 26.220; Part 26 Space Launch Coordination.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 27 respondents and 203 responses.

Estimated Hours per Response: 4 to 16 hours.

Frequency of Response: On occasion and as needed reporting requirements; Third party disclosure requirement.

Total Annual Burden: 848 hours.

Total Annual Cost: \$300,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C 151, 152, 154(i), 155(c), 301, 303(c), 303(f), and 303(r) of the Communications Act of 1934 as amended, and section 2 of the Launch Communications Act, Public Law 118–85, 138 Stat. 1546 § 2.

Needs and Uses: On September 22, 2023, the Commission released a Second Report and Order and Further Notice of Proposed Rulemaking, FCC 23–76, in ET Docket No. 13–115, allocating two of the three bands

addressed in the Launch Communications Act, the 2025–2110 MHz and 2200–2290 MHz bands, for space launch operations, and creating a new rule part to govern these operations, part 26, Space Launch Services, including licensing and service rules. On December 31, 2024, the Commission released a Third Report and Order, FCC 24–132, in ET Docket No. 13–115, modifying its rules with respect to a third band, the 2360–2395 MHz band (2.3 GHz band). Specifically, the Third Report and Order allocated the band for space launch operations and brought these operations in the 2.3 GHz band under the regulatory framework of the new part 26, in compliance with the mandate of the Launch Communications Act.

Under the part 26 framework established by the Commission, eligible space launch operators seeking authorization to use frequencies available for Space Launch Services must first apply for and obtain a non-exclusive 10-year nationwide spectrum license. After they obtain this license, operators must, for each launch (1) register in the Universal Licensing System (ULS) the launch site and each corresponding station (fixed, base, itinerant, or mobile) that will be used in the space launch operation; (2) complete a frequency coordination process using a third-party frequency coordinator; and (3) following successful coordination, register in ULS the final approved technical and operating parameters associated with the coordinated launch prior to commencing the launch operation.

This collection of information covers requirements for the second step, completing a frequency coordination process using a third-party frequency coordinator. Under Section 26.202 of the Commission's rules, each Space Launch Services licensee must, for each proposed launch operation, submit the technical and operational parameters of the launch to the space launch frequency coordinator, in order to initiate post-grant frequency coordination. Any changes to the technical and operational parameters for a launch event that occur after completion of post-grant frequency coordination also require coordination, and these changes shall be provided to initiate an updated post-frequency grant coordination. The specific information required in coordination requests is further detailed in Public Notice, “Wireless Telecommunications Bureau Announces Licensing and Coordination Procedures for the Space Launch Service,” DA 25–270 (WTB rel. Mar. 25, 2025).

This collection also covers the process for the selection of the frequency coordinator. Under that process, the Wireless Telecommunications Bureau will issue a Public Notice announcing the opening of a filing window for interested parties to submit applications. Interested parties will be required to submit an application in the Electronic Comment Filing System (ECFS), specifically in WT Docket No. 24–687. Applications must include the information specified in Public Notice, “Wireless Telecommunications Bureau Announces Mechanism and Criteria for Selecting Space Launch Frequency Coordinator,” DA 25–269 (WTB rel. Mar. 25, 2025).

These information collection requirements will enable a system of frequency coordination that provides space launch operators with licensed access to three bands for space launch operations. The Commission seeks approval for the information collection requirements discussed above.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–16996 Filed 8–19–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0800; FR ID 362770]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before October 19, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

OMB Control Number: 3060–0800.

Title: FCC Application for Assignments of Authorization and Transfers of Control: Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau.

Form Number: FCC Form 603.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, not-for-profit institutions, and State, Local or Tribal Governments.

Number of Respondents and Responses: 2,567 respondents; 2,567 responses.

Estimated Time per Response: 0.05 hours–1.80 hours.

Frequency of Response:

Recordkeeping requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 155, 158, 161, 301, 303(r), 308, 309, 310 and 332.

Total Annual Burden: 2,957 hours.

Annual Cost Burden: \$532,728.

Needs and Uses: FCC Form 603 is a multi-purpose form that is used by radio services in Wireless Services within the Universal Licensing System (ULS) or any other electronic filing interface the Commission develops. FCC 603 is composed of a main form that contains the administrative information and a

series of schedules used for filing technical information. These schedules are required when applying for Auctioned Services, Partitioning and Disaggregation, Undefined Geographical Area Partitioning, and Notification of Consummation or Request for Extension of Time for Consummation. Applicants/licensees in the Public Mobile Services, Personal Communications Services, Private Land Mobile Radio Services, Broadband Radio Service, Educational Broadband Service, Maritime Services (excluding Ship), and Aviation Services (excluding Aircraft) use FCC Form 603 to apply for an assignment or transfer, to establish their parties' basic eligibility and qualifications, to classify the filing, and/or to determine the nature of the proposed service. This form is also used to notify the FCC of consummated assignments and transfers of wireless licenses to which the Commission has previously consented or for which notification but not prior consent is required. Respondents are required to submit FCC 603 electronically.

The Commission seeks approval for an extension of its currently approved collection.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–16997 Filed 8–19–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's

Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 21, 2026.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to

Comments.applications@stls.frb.org:

1. *Meade Bancorp, Inc., Brandenburg, Kentucky*; to retain 26.74 percent of the voting shares of Bedford Loan and Deposit Bancorp, Inc., and thereby indirectly retain voting shares of Bedford Loan & Deposit Bank, both of Bedford, Kentucky.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–17015 Filed 8–19–26; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–IEB–2026–04; Docket No. 2026–0002; Sequence No. 07]

Privacy Act of 1974; System of Records

AGENCY: General Services Administration (GSA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the General Services Administration (GSA) is providing an update to the system of records entitled Contracted Travel Services Program, GSA/GOVT–4, a system designed to provide efficient and secure travel management services for government

agencies, including the General Services Administration (GSA), by integrating advanced technology with high-quality customer service.

DATES: Submit comments on or before September 21, 2026.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal, <http://www.regulations.gov>. Submit comments by searching for Contracted Travel Services Program GSA/GOVT-4.

FOR FURTHER INFORMATION CONTACT: Call or email Richard Speidel, Chief Privacy Officer at 202-969-5830 and gsa.privacyact@gsa.gov.

SUPPLEMENTARY INFORMATION: GSA proposes to modify a system of records

subject to the Privacy Act of 1974, 5 U.S.C. 552a, to make technical changes to GSA/GOVT-4 consistent with the template laid out in OMB Circular No. A-108. Accordingly, GSA has made technical corrections and non-substantive language revisions to the following sections: “Policies and Practices for Storage of Records”, “Policies and Practices for Retrieval of Records”, “Policies and Practices for Retention and Disposal of Records”, “Administrative, Technical and Physical Safeguards”, “Record Access Procedures”, “Contesting Record Procedures”, and “Notification Procedures.” GSA has also created the following new sections: “Security Classification” and “History.”

SYSTEM NAME AND NUMBER:

Contracted Travel Services Program, GSA/GOVT-4.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

System records for *GO.gov*, (formerly ETSNext) are primarily located at the Travel and Expense (T&E) service provider, SAP Concur (a FedRAMP Cloud Service Provider), under contract with GSA’s Federal Acquisition Service (FAS). In addition, records will be stored by Travel Management Companies (TMCs) available on the Multiple Award Schedule, 561510.

TRAVEL MANAGEMENT COMPANIES ON THE MULTIPLE AWARD SCHEDULE

Company name	Address
ADTRAV	4555 SOUTHLAKE PKWY, HOOVER, AL 35244-3238.
CORPORATE TRAVEL MANAGEMENT (CTM)	2120 S 72ND ST, STE 700, OMAHA, NE 68124-2366.
CRUISE VENTURES, INC, DBA CI TRAVEL	192 BALLARD CT, STE 200, VIRGINIA BEACH, VA 23462-6538.
CW GOVERNMENT TRAVEL DBA CWTSAOTRAVEL	4300 WILSON BLVD, STE 230, ARLINGTON, VA 22203-4167.
DULUTH TRAVEL	2860 PEACHTREE INDUSTRIAL BLVD, STE 1000, DULUTH, GA 30097-7906.
EL SOL TRAVEL	4500 S LAKESHORE DR, STE 357, TEMPE, AZ 85282-7052.
INTEGRATED SOLUTIONS & SERVICES DBA ISS	109 S NORTSHORE DR, STE 300, KNOXVILLE, TN 37919-4925.
NATIONAL TRAVEL SERVICE	707 VIRGINIA ST E, STE 100, CHARLESTON, WV 25301-2796.
OMEGA WORLD TRAVEL	3102 OMEGA OFFICE PARK, FAIRFAX, VA 22031-2409.
TRAVEL INCORPORATED	4355 RIVER GREEN PKWY, DULUTH, GA 30096-2572.
GBT US LLC DBA AMEXGBT	666 3rd AVE, NEW YORK, NY 10017.
ALAMO TRAVEL	8930 WURZBACH RD, STE 100, SAN ANTONIO, TX 78240-1004.
SUN TRAVEL	5860 N MESA ST, STE 107, EL PASO, TX 79912-4666.

SYSTEM MANAGER:

Director, Office of Travel, Employee Relocation, and Transportation Services (QMC), General Services Administration, 1800 F Street NW, Washington, DC 20405.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Code (U.S.C.) 5 U.S.C. 5701-5739, 31 U.S.C. 3511, 3512, and 3523; Federal Travel Regulation CFR-Title 41.

PURPOSES OF THE SYSTEM:

The purpose of the system is to establish a comprehensive end-to-end travel and expense technology solution containing information that enables individuals on official Federal Government business to book their travel itinerary, receive approval to travel (authorization/request), and submit expense reimbursements (voucher/expense report) online. The system facilitates Travel Management Companies (TMCs) providing services under contract to the Federal Government (Multiple Award Schedule (MAS)) to issue reservations and air/rail tickets, lodging, and rental cars.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are Federal employees authorized to perform official travel, Federal employees authorized to manage travel, Federal employees authorized to approve travel/reimbursement, and individuals not employed (e.g., invitational traveler) by the Federal Government being provided travel by the Federal Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

System records include a traveler’s profile containing: Full name of individual which matches the name on the form of ID used for travel (e.g., driver’s license, passport); employee identification number; travel personnel role; home and office telephone numbers; home address; home and office email addresses; emergency contact name and telephone number; entity name (e.g., agency, financial institution, travel vendor), entity identifier, address, and telephone number; air travel preference; rental car identification number and car preference; hotel preference and room preference, current passport number,

driver’s license number, permanent resident card number, national identification number, and/or visa number(s); credit card numbers and related information; balance owed; bank account information needed for electronic funds transfer; frequent traveler/loyalty account information (e.g., frequent flyer account numbers); date of birth; sex; medical information for a reasonable accommodation (e.g., wheelchair); dietary restrictions; meal preference; redress number (number DHS assigns to passenger to promote resolution with previous watch list alerts); Known Traveler Number (passenger number DHS utilizes to facilitate passenger clearance e.g., TSA Pre-Check, Global Entry); travel companion/attendee name; travel purpose; passenger name record (PNR); trip information (e.g., destinations, reservation information; car rental pickup/dropoff, hotel reservation details); travel authorization/request information; travel claim (voucher/expense report) information (e.g., expense receipts/amounts); monthly reports from travel agent(s) showing charges to individuals, balances, and

other types of account analyses; and other official travel related information.

RECORD SOURCE CATEGORIES:

The sources are the individuals themselves, federal employees, federal agencies, travel authorizations (request), travel voucher (expense report), credit card companies, and travel service providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside GSA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To another Federal agency, Travel Management Center (TMC), online booking tool (OBT) suppliers and the airlines that are required to support the DHS/TSA Secure Flight program. In this program, DHS/TSA assumes the function of conducting pre-flight comparisons of airline passenger information to Federal Government watch lists. In order to supply the appropriate information, these mentioned parties are responsible for obtaining new data fields consisting of personal information for date of birth, sex, redress number, and known traveler number. At this time, the redress number is optional and the known traveler number is for future programs. They may be required to be stored in another phase of the Secure Flight program.

b. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where agencies become aware of a violation or potential violation of civil or criminal law or regulation.

c. In a proceeding before a court or adjudicative body before which the agency is authorized to appear, when (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation.

d. To a Member of Congress or staff on behalf and at the requests of the individual who is the subject of the record.

e. To a Federal agency employee, expert, consultant, or contractor in performing a Federal duty for purposes of authorizing, arranging, and/or claiming reimbursement for official travel, including, but not limited to, traveler profile information.

f. To a Federal agency employee, expert, consultant, or contractor while performing TDY travel, who is taking leave while on official travel, for purposes of tracking travel expenses that are the responsibility of the traveler and not the Federal Government, including, but not limited to, change fees, traveler personal itinerary information, etc.

g. To a Federal agency employee, expert, consultant, or contractor in tracking and providing assistance to provide technical support (e.g., helpdesk), or resolve a travel related issue e.g., changes when flights are cancelled.

h. To a credit card company for billing purposes, including collection of past due amounts.

i. To an expert, consultant, or contractor in the performance of a Federal duty to which the information is relevant.

j. To a Federal agency by the contractor in the form of itemized statements or invoices, and reports of all transactions, including refunds and adjustments to enable audits of charges to the Federal Government.

k. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the receiving of bids and proposals for a contract to be awarded by the government; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

l. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee to whom the information pertains.

m. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), when the information is required for program evaluation purposes.

n. To officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation

concerning personnel policies, practices, and matters affecting working conditions.

o. To a travel services provider for billing and refund purposes.

p. To a carrier or an insurer for settlement of an employee claim for loss of or damage to personal property incident to service under 31 U.S.C. 3721, or to a party involved in a tort claim against the Federal Government resulting from an accident involving a traveler.

q. To a credit reporting agency or credit bureau, as allowed and authorized by law, for the purpose of adding to a credit history file when it has been determined that an individual's account with a creditor with input to the system is delinquent.

r. To the National Archives and Records Administration (NARA) for records management purposes.

s. To appropriate agencies, entities, and persons when: (1) GSA suspects or has confirmed that there has been a breach of the system of records, (2) GSA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, GSA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

t. To another Federal agency or Federal entity, when GSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All records are stored electronically in a database. Information is encrypted in transit and at rest.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records can be retrieved by name, other personal identifier, or any attribute of the system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records kept by a Federal agency are maintained in accordance with the General Records Retention Schedules issued by the National Archives and Records Administration (NARA) or an agency and NARA approved records disposition schedule.

- GRS 01.1/010 Financial Transaction Records Related To Procuring Goods And Services, Paying Bills, Collecting Debts, And Accounting.
- Retention Instructions: Temporary. Destroy 6 years after final payment or cancellation, but longer retention is authorized if required for business use.
- Legal Disposition Authority: DAA-GRS-2013-0003-0001 (GRS 01.1/010).
- Approved by NARA: 6/12/2014.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through a combination of administrative, technical, and physical security measures. Administrative measures include, but are not limited to, policies that limit system access to individuals within an agency with a legitimate business need and regular review of security procedures and best practices to enhance security. Technical measures include, but are not limited to, system design that allows authorized system users access only to data for which they are responsible, required use of multifactor authentication, and use of encryption for data transfers. Physical security measures include, but are not limited to, the use of data centers which meet NIST requirements for storage of sensitive data.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the appropriate administrative office for the agency that is authorizing and/or reimbursing their travel. Individuals must furnish their full name to the authorizing agency for their records to be located and identified. Alternatively, if an individual wishes to access any data or record pertaining to him or her in the system after it has been submitted, that individual could also consult the GSA's Privacy Act implementation rules available at 41 CFR part 105-64.2.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate administrative office for the agency that authorized and/or reimbursed their travel. Individuals must furnish their full name to the authorizing agency for their

records to be located and identified. Alternatively, if an individual wishes to contest the content of any record pertaining to him or her in the system after it has been submitted, that individual could consult the GSA's Privacy Act implementation rules available at 41 CFR part 105-64.4.

NOTIFICATION PROCEDURES:

Inquiries from individuals should be addressed to the appropriate administrative office for the agency that is authorizing and/or reimbursing their travel. Alternatively, if an individual wishes to be notified at his or her request if the system contains a record pertaining to him or her after it has been submitted, that individual could consult the GSA's Privacy Act implementation rules available at 41 CFR part 105-64.4.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This system was previously published in the **Federal Register** at 74 FR 26700.

DATED:

Published 06/03/2009.

Richard Speidel,

Chief Privacy Officer, Office of the Deputy Chief Information Officer, General Services Administration.

[FR Doc. 2026-16980 Filed 8-19-26; 8:45 am]

BILLING CODE 6820-AB-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[60Day-26-1461; Docket No. CDC-2026-1420]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Overdose Response Strategy Data Collection. This

data collection focuses on a survey and a reporting tool that will provide critical data to CDC for program monitoring, developing technical assistance and guidance documents, and assessing the extent to which the program is achieving the goal to reduce drug overdose.

DATES: CDC must receive written comments on or before October 19, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2026-1420 by either of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. Follow the instructions for submitting comments.
- **Mail:** Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, H21-8, Atlanta, Georgia 30329; Telephone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Overdose Response Strategy Data Collection (OMB Control No. 0920–1461, Exp. 8/31/2028)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Drug overdoses remain the leading cause of injury-related death in the United States. CDC predicts that around 108,000 Americans died from a drug overdose in the 12-month period ending December 2023. Recently, overdose deaths have been linked to the rapid increase in synthetic opioids, including illicitly manufactured fentanyl (IMF), and a resurgence of stimulants, particularly methamphetamine, into the

illegal drug supply. Multisector collaboration is critical to preventing overdoses and saving lives. Two key sectors in this response are public health and public safety, as they are both on the front lines and are tasked with improving community safety and well-being. CDC demonstrates strong commitment to public health/public safety partnerships through implementation of several national programs, including the Overdose Response Strategy (ORS).

ORS teams support public health and public safety entities in their jurisdictions by:

- Sharing data systems to inform rapid and effective community overdose prevention efforts;
- Supporting immediate, evidence-based response efforts that can directly reduce overdose deaths;
- Designing and using promising strategies at the intersection of public health and public safety;
- Disseminating information to support the implementation of evidence-informed overdose prevention strategies;

As the ORS is one of CDC’s flagship overdose prevention programs, and partnering with public safety is one of CDC’s key overdose prevention strategies, a greater understanding of the impact and effectiveness of the ORS is needed to inform program enhancements and improvements.

This ICR focuses on a survey and a reporting tool that ORS teams and their partners will complete to provide

critical data to CDC for program monitoring, to inform technical assistance and guidance documents produced by CDC or other partners, and to assess the extent to which the ORS program is achieving the goal of supporting public health and public safety partnerships to reduce drug overdose. It will also provide CDC with the capacity to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources.

Information collected will be disseminated to ORS teams and the public via an annual Program Evaluation Report and an ORS Annual Report. Data from both reports will largely be used to develop programmatic reports, tools, and implementation guides for the purposes of program improvement. Revisions requested are to update the logic model, reduce the number of evaluation questions, remove the ORS management and coordination team annual surveys, streamline the surveys, data collection, and analysis by combining previously approved surveys, and revise survey questions to better align with an updated logic model. These changes are expected to significantly improve the efficiency and utility of the data collection activities.

CDC requests OMB approval for an estimated 449 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
ORS Respondents	Invitation email	262	1	2/60	9
ORS Respondents	Reminder email	262	1	2/60	9
ORS Public Health Analysts	ORS Annual Evaluation Survey	61	1	15/60	15
	ORS Quarterly Reporting Template	61	4	45/60	183
ORS Drug Intelligence Officers	ORS Annual Evaluation Survey	61	1	15/60	15
	ORS Quarterly Reporting Template	61	4	45/60	183
Public health and public safety partners.	ORS Annual Evaluation Survey	140	1	15/60	35
Total .....	.....	.....	.....	.....	449

Jeffrey M. Zirger,
Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.
[FR Doc. 2026–17037 Filed 8–19–26; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[60Day–26–0214; Docket No. CDC–2026–1387]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the National Health Interview Survey (NHIS). This Extension is designed to include the continuation of current questionnaire content and data collection operations in 2027, as well as a systemic redesign of the NHIS to be implemented in 2028.

DATES: Written comments must be received on or before October 19, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2026–1387 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all public comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

National Health Interview Survey (NHIS) (OMB Control No. 0920–0214, Exp. 12/31/2026)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (HHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. The annual National Health Interview Survey (NHIS) is a major source of general statistics on the health of the U.S. population and has been in the field continuously since 1957. This voluntary

and confidential household-based survey collects demographic and health-related information from a nationally representative sample of households and noninstitutionalized, civilian persons throughout the country. NHIS data have long been used by government, academic, and private researchers to evaluate both general health and specific issues, such as smoking, diabetes, health care coverage, and access to health care. The survey is also a leading source of data for the Congressionally-mandated “Health US” and related publications, as well as the single most important source of statistics to track progress toward HHS health objectives.

The current NHIS Sample Adult and Sample Child Questionnaires include annual core content that is scheduled to be fielded in the survey every year, rotating content that is fielded periodically, emerging content to address new topics of growing interest, and sponsored content that is fielded when external funding is available. Rotating Sample Adult and Sample Child core content on service utilization, physical activity (including walking for adults), and sleep that was on the NHIS in 2026 will rotate off in 2027. Content on alcohol use, fatigue, and smoking history and cessation will also rotate off the sample Adult Core, and content on height and weight, neighborhood characteristics, and screen time will rotate off the Sample Child core. The 2027 Sample Adult rotating core will include items on chronic conditions, allergies, and hearing and communication—content previously fielded on the 2024 NHIS. It will also include content on preventative screening and aspirin use, and chronic pain, content that was previously fielded in 2025. Content on injuries and detailed employment information that was fielded on the 2026 Sample Adult survey will continue in 2027. The 2027 Sample Child content will include questions on injuries (continuing from 2026), allergies (previously fielded in 2024) and stressful life events (previously fielded in 2025).

Sponsored content on complementary and integrative health, using questions similar to those previously fielded in 2022, will be included on both the 2027 Sample Adult and Sample Child Questionnaires. Sample Adult and Child Questionnaires for 2027 will also include vision and other difficulties with taste, smell, hearing and communication using similar questions to those fielded in 2023.

Sponsored content from the 2026 Adult and Child Questionnaires on

chronic fatigue will remain in 2027. Sponsored content from the 2026 Adult Questionnaire on life satisfaction, diabetes, social support, loneliness, and isolation, tobacco product use, chronic fatigue, immunizations, whole person health, and social functioning and age of disability onset will also remain. Sponsored content on the 2027 Adult Questionnaire will also include questions on cancer screening, caregiving, epilepsy, and psoriasis, similar to questions previously fielded in 2025, and questions on occupational health, psoriasis and Crohn's/ulcerative colitis, similar to questions fielded in 2023 and 2024.

Like in past years, and in accordance with the 1995 initiative to increase the integration of surveys within the HHS, respondents to the 2027 NHIS will serve as the sampling frame for the Medical Expenditure Panel Survey conducted by the Agency for Healthcare Research and Quality (AHRQ). A subsample of NHIS respondents and/or members of commercial survey panels may be identified to participate in short methodological and cognitive testing activities to evaluate the questionnaire and/or inform work to redesign the data collection methods and questionnaires for 2028. In addition, subsamples of NHIS respondents may be recontacted by web, phone, or mail to ask follow-up questions on topics that are already included in the NHIS. The NHIS also includes content that is used to benchmark estimates and calibrate survey weights from probability-based online commercial survey panels as part of the NCHS Rapid Surveys System.

To maintain data quality and contain operational costs, a redesign of the NHIS is being planned for implementation in 2028. The redesigned NHIS will expand upon the strengths of the current in-person data collection methodology by incorporating lower-cost, self-administered data collection modes to account for respondent preferences and reduce operational costs. This will be done using a sequential mixed-mode data collection approach in which sampled households are first invited to respond using self-administered online and paper questionnaires. Census Bureau field representatives will then conduct in-person follow-up for some households that do not respond to self-response modes, preserving the long-standing quality standards of the NHIS while modernizing its operational model. This mixed-mode design will be refined through a series of cognitive, usability, and field tests. This redesign of both survey operations and questionnaire content is strategically timed to coordinate with the data cycle

used to monitor Healthy People 2030 objectives, providing a timely transition into the next decade of monitoring the nation's critical public health indicators. It is also timed to coincide with the Census Bureau's deployment of its new modernized data collection program—Data Ingest and Collection for the Enterprise (DICE)—that will improve the NHIS's ability to collect data from respondents through paper, internet, and interviewer-assisted modes.

The redesigned 2028 NHIS will continue to include an Adult Questionnaire completed by one randomly selected adult aged 18 or older in each sampled household. Consistent with current practices, information about the selected adult will be collected from the adult himself/herself unless s/he is physically or mentally unable to do so, in which case a knowledgeable proxy will be allowed to answer for the adult. The redesigned 2028 NHIS will also continue to include questions regarding one randomly selected child under age 18 in each household with children. Information about the child will be collected from a parent or guardian living with the child. Draft questionnaires for both adults and children have been included in this docket for public review and comment. The draft 2028 questionnaires can also be viewed on the NHIS website at <https://www.cdc.gov/nchs/nhis/about/2028-questionnaire-redesign.html>. It is expected that these questionnaires will be revised following the public comment period.

The National Center for Health Statistics (NCHS) is particularly interested in comments that support the planning of the redesign to be implemented in 2028. Comments are especially welcome regarding the structure, length, and clarity of the redesigned adult and child questionnaires; the implications of adopting a sequential mixed-mode design; the importance of specific content additions or removals; and the potential effect of these changes on data quality, usability, and trend measurement. Commenters who suggest questionnaire additions are encouraged to identify the minimum question sets to meet identified data needs. NCHS is also interested in comments on the practical utility of child-level data collection that is largely limited to domains for which all-person population estimates are desired (*i.e.*, population estimates that have historically relied on data from both the adult and child-focused interviews).

The redesigned questionnaires will retain key health measures that are

essential for tracking public health trends. Key health measures in the draft adult questionnaire include longstanding items on major chronic health conditions, foundational measures of disability and functional status based on the Washington Group Short Set, and key measures of health insurance coverage, continuity, and adequacy. Topic areas in this draft questionnaire also include healthcare utilization, access to care, medication use, and prescription nonadherence. Behavioral and demographic covariates are also included. The draft adult questionnaire introduces several new content areas to reflect contemporary health information needs. These include a recently validated summary measure of overall health and well-being known as the Whole Person Health Index and new questions on high-deductible health plans, insurance adequacy, primary care, asthma treatment, and marijuana use.

Because the redesigned NHIS will include self-administered online and mailed questionnaires, the redesigned 2028 questionnaire will necessarily be shorter in length and less complicated in structure, as compared to the current questionnaire. Many of the more detailed questions on particular topics that were fielded annually from 2019 to 2027 are not included in the draft adult questionnaire for 2028. Also, the redesigned NHIS questionnaire structure does not include a detailed schedule of content that rotates on and off the survey with a set periodicity established years in advance. This change is necessary to both shorten the questionnaire and to preserve an agile and dynamic design that allows for the addition of content on topics of current and emerging interest. Space will still be reserved for federal agencies to fund sponsored content. For example, in 2028, NCHS anticipates including sponsored content on screening for breast, cervical, and colorectal cancer and on injury, among others.

OMB Clearance is sought for three years, to collect data for 2027–2029. For 2027 data collection, the docket includes detailed descriptions of sampling, questionnaires, data collection procedures, and other survey design components. These details have not yet been finalized for the 2028 and 2029 data collections. Therefore, the plans for the updated survey design are described only at a high level in this package. NCHS will submit more details regarding 2028 data collection, including revised questionnaires, to the Office of Management and Budget for approval in 2027.

2027 ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Expected number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Adult Household Member	Household Roster	35,000	1	4/60	2,333
Sample Adult	Adult Questionnaire	33,000	1	56/60	30,800
Adult Family Member	Child Questionnaire	10,000	1	20/60	3,333
Adult Family Member	Methodological Projects	3,000	1	40/60	2,000
Adult Family Member	Reinterview Survey	5,500	1	5/60	458
Total .....	.....	.....	.....	.....	38,925

2028–2029 ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Expected number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Adult Household Member	Household Roster	65,000	1	4/60	4,333
Sample Adult	Adult Questionnaire	40,000	1	35/60	23,333
Adult Family Member	Child Questionnaire	10,000	1	15/60	2,500
Adult Family Member	Methodological Projects	16,000	1	35/60	9,333
Sample Adolescent	Adolescent Follow-Back Survey	500	1	15/60	125
Adult Family Member	Reinterview Survey	3,000	1	5/60	250
Total .....	.....	.....	.....	.....	39,875

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.

[FR Doc. 2026–17040 Filed 8–19–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–1193]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Evaluating the Impact of Training and Technical Assistance (TTA) Programs for NCCCP Efforts” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on January 13, 2026 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain Find this particular

information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Evaluating the Impact of Training and Technical Assistance (TTA) Programs for NCCCP Efforts (OMB No. 0920–1193)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention’s (CDC) National Comprehensive Cancer Control Program (NCCCP) has been a primary funder for state and community-based cancer control interventions since its inception in the late 1990s. NCCCP’s 66 recipients, including programs in all 50 states, the District of Columbia, a number of tribes, tribal organizations, and U.S. Associated Pacific Islands/territories, as well as cancer coalitions, engage with partners to enhance cancer-related data systems and deliver evidence-based interventions (EBIs) for

primary prevention, screening, and survivorship with the goal of impacting population-level cancer outcomes and reduce the burden of cancer. To build capacity and maximize the impact of funded NCCCPs, CDC developed and implemented the training and technical assistance program, Evaluating the Impact of Training and Technical Assistance (TTA) Programs for NCCCP Efforts (referred to hereafter as the “TTA Program” or “DP23–0017”). The current TTA program cycle builds upon the previous cycles to enhance NCCCP recipients’ capacity to plan for and implement evidence-based interventions (EBIs) and strategies through multisectoral partnerships; policy, system, and environmental change approaches; approaches to health for all, and approaches to addressing non-medical factors that influence health. The funded TTA entities are responsible for developing and implementing a TTA plan, sustaining partnerships, employing various training methods, and evaluating their TTA efforts. A comprehensive evaluation is critical to ensure the provision of high-quality and effective TTA.

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act as amended [42 U.S.C. 241(a) and 42 U.S.C. 247b(k)(2)] and also authorizes CDC to collect this information.

CDC proposes to assess DP23–0017 in order to: (1) document the nature of the TTA provided and the extent to which they were able to achieve planned short-

term outcomes; and (2) identify which TTA efforts contributed to NCCCP recipients’ achievement in program outcomes. There are other ongoing program data collection efforts such as annual program reports and evaluation reports, none of which capture what this effort aims to do, thus highlighting the need for this evaluation.

CDC is requesting a three-year Reinstatement with Change of the previously approved Information Collection Request (ICR) (Assessing the Impact of Targeted Training and Technical Assistance Efforts on the Implementation of Comprehensive Cancer Control Outcomes, OMB Control No. 0920–1193). This request for Reinstatement with Change includes updates to the evaluation design based on programmatic changes. The new design emphasizes short-term outcomes related to reaching NCCCP recipients and increasing recipients’ capacity to implement their comprehensive cancer control plans, achieve their program outcomes, and plan for and implement activities to support sustainability of the NCCCP efforts. There is a new focus on the TTA providers’ efforts to network and collaborate with one another and other subject matter experts, advisory groups, and partners to plan for and deliver TTA. Under the previous request, a web-based survey was administered one time to a cross-section of NCCCP recipients. With this Reinstatement, the web-based survey will be administered twice with two individuals from each NCCCP recipient (one Program Coordinator and one

NCCCP staff member, partner, or coalition member) who received TTA. This collection will provide interim information on the implementation and short-term outcomes of TTA and allow for program improvements to better serve NCCCP recipients. Lastly, the current evaluation introduces focus groups to collect data from NCCCP recipients on how TTA enhanced their ability to implement cancer control plans. The focus groups will be conducted annually and target a subset of NCCCP recipients who participated in TTA.

The web-based survey and focus groups will capture quantitative and qualitative data on the reach of DP23–0017 TTA efforts, the type and effectiveness of TTA received, and its impact. Survey changes include questions about additional TTA types (e.g., webinars, asynchronous trainings, communities of practice), TTA topics, and the TTA’s influence on respondents’ and their organizations’ capacity to carry out their comprehensive cancer control plans. Focus groups will provide context for survey data, particularly how TTA enhanced program capacity.

OMB approval is requested for three years. Participation is voluntary and respondents will not receive incentives for participation. The total annualized response burden for the evaluation study period is estimated to be 96 hours. There are no direct costs to respondents other than their time to participate in data collection activities.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Program Directors	Focus Group and Web Survey Nomination Form.	44	1	30/60
Program Directors	Focus Group Nomination Form	22	1	15/60
Program Staff, Partners, and Coalition Members.	Focus Group Scheduling	15	1	5/60
Program Staff, Partners, and Coalition Members.	Focus Group Guide	15	1	1.5
Program Coordinator	Web-based Survey	44	1	30/60
Program Staff, Partners, and Coalition	Web-based Survey	44	1	30/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office,
Office of Public Health Ethics and
Regulations, Office of Science, Centers for
Disease Control and Prevention.
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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****Privacy Act of 1974; System of Records**

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS) is establishing a new system of records to be maintained by the Centers for Medicare & Medicaid Services (CMS), titled “Nurses for Nursing Homes Program (NNHP),” system No. 09–70–0545. The new system of records will cover the collection of records on individuals who apply for, participate in, or otherwise support the Nurses for Nursing Homes Program (NNHP). Records maintained in the system will include personally identifiable information (PII), including demographic, professional licensure and credential information, education and training information, employment and nursing facility affiliation, payment information, tax reporting, audit records, and other records necessary to administer the program.

CMS will use these records to support the administration of a nursing workforce incentive program designed to strengthen the workforce serving Medicare and Medicaid-certified nursing homes with a focus on underserved and rural communities. The scope of the new system of records will be commensurate with its purpose of supporting the Nursing Home Staffing Campaign/Nursing Incentive Program (NHSC/NIP).

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this new system of records is effective August 20, 2026], subject to a 30-day period in which to comment on this new system of records described below. Submit any comments by September 21, 2026.

ADDRESSES: The public should submit written comments on this notice, by mail or email, to Barbara Demopulos, CMS Privacy Act Officer, 7500 Security Blvd., N1–14–56, Baltimore, MD 21244–1850, or barbara.demopulos@cms.hhs.gov. To review comments, please contact Barbara Demopulos.

FOR FURTHER INFORMATION CONTACT: General questions about the system of records should be addressed to: Evan Shulman, Director, Division of Nursing

Homes, CMS Division of Security, Privacy Policy & Oversight (DSPPO), Information Security & Privacy Group (ISPG), Office of Information Technology (OIT), 7500 Security Blvd., Baltimore, MD 21244–1850. Office: 443–324–9561 or email evan.shulman@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background on the CMS Nurses for Nursing Homes Program**

The Nurses for Nursing Homes program is a new CMS initiative launched under the authority of the Office of the Administrator. Eligible nurses apply to the Program through the CMS Nurses for Nursing Homes Program application portal, where CMS personnel review and validate applicant eligibility, verify nursing licensure and employment, and place confirmed participants at eligible nursing facilities (*i.e.*, CMS-certified nursing homes that meet the Program’s participation criteria, including those serving underserved and rural communities). Participating nursing facility employer representatives periodically provide employment verification and compliance updates, while CMS personnel oversee financial administration, including the processing of quarterly incentive payments and required tax reporting. Financial incentives may include student loan repayment and incentive stipends, paid out quarterly over the CMS-established commitment period. The program is funded through Civil Monetary Penalties (CMPs) collected from Medicare and Medicaid certified nursing homes for health and safety violations, authorized under Title XVIII, Section 1819(h)(2)(B)(ii)(IV)(ff) and Title XIX, Section 1919(h)(2)(B)(ii)(IV)(ff) of the Social Security Act, and codified at 42 CFR 488.433.

II. New System of Records 09–70–0545

This is a new system of records. No existing CMS SORN covers this program, its data collection, routine uses, or this population of records (individual nurse applicants, not Medicare/Medicaid providers or beneficiaries). A report on this new system of records has been sent to OMB

and Congress in accordance with 5 U.S.C. 552a(r).

Barbara Demopulos,

CMS Privacy Act Officer, Division of Security, Privacy Policy and Governance, Information Security and Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services (CMS).

SYSTEM NAME AND NUMBER:

Centers for Medicare & Medicaid Services (CMS) Nurses for Nursing Homes Program, System No. 09–70–0545.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The address of the agency component responsible for this system of records is: Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services, 7500 Security Blvd., Baltimore, MD 21244–1850.

SYSTEM MANAGER(S):

The system manager is the Chief Technology Officer, Office of Health Technology & Products (OHTP) at Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services, 7500 Security Blvd., Baltimore, MD 21244–1850.

Program Point of Contact: Director, Division of Nursing Homes Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services, 7500 Security Blvd., Baltimore, MD 21244–1850.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority to maintain this system of records is given under:

- Title XVIII, Section 1819(h)(2)(B)(ii)(IV)(ff) of the Social Security Act, Medicare nursing facility standards and Civil Monetary Penalty authority;
- Title XIX, Section 1919(h)(2)(B)(ii)(IV)(ff) of the Social Security Act, Medicaid nursing facility standards and Civil Monetary Penalty authority;
- 42 CFR 488.433, Civil Monetary Penalties (CMPs) collected from Medicare and Medicaid certified nursing homes for health and safety violations;
- 31 U.S.C. 7701(c), Debt Collection Improvement Act of 1996, Requirement That Applicant Furnish Taxpayer Identifying Number; and
- OMB Circular A–123, Internal controls and financial management.

PURPOSE(S) OF THE SYSTEM:

Relevant agency personnel use records about individuals in this system of records on a need-to-know basis for the following purposes:

1. To identify and select qualified RNs and LPNs/LVNs to participate in the Program, including verifying initial eligibility based on nursing licensure, employment at a qualifying CMS-certified nursing facility, and commitment to a CMS-established service period;

2. To maintain and verify program applicant and participant credentials, nursing licensure, and employment data to confirm that all claimed background and employment information is valid and all credentials are current and in good standing throughout the duration of the service commitment;

3. To administer financial incentive payments, including student loan repayment awards and incentive stipends, disbursed quarterly over the CMS-established commitment period via an Automated Clearing House/Electronic Funds Transfer (ACH/EFT) payment rails;

4. To process and issue federal tax reporting documentation, including Form 1099, for incentive payments made to participating nurses, and to fulfill related obligations to the Internal Revenue Service (IRS) and Department of the Treasury;

5. To respond to inquiries from program applicants, participants, their authorized representatives, and Congressional representatives regarding application status, payment processing, eligibility determinations, and service commitment compliance;

6. To compile and generate managerial, compliance, and statistical reports related to program administration, payment tracking, and participant compliance with service requirements;

7. To monitor participating nurses' ongoing compliance with service commitment requirements at eligible CMS-certified nursing facilities, including periodic verification of hours worked, employment status, and continued facility eligibility

8. To detect and prevent duplicate or fraudulent applications through Social Security number (SSN)-based duplicate detection, nursing license verification, and identity proofing via Identity Assurance Level 2 (IAL2)-certified Credential Service Providers, consistent with Routine Use 1 (contracted services assisting CMS in carrying out program functions) and Routine Use 3 (disclosures to agencies responsible for enforcing, investigating, or prosecuting violations);

9. To facilitate state Medicaid agency fund transfers related to the Program's financial administration, to support enrollment reporting to state agencies for participating nurses and facilities,

and to provide payment reporting to state agencies as required by applicable program and Medicaid requirements; and

10. To maintain audit logs, including IP address and device data, for fraud detection and system security purposes from all users accessing the Program portal and CMS-operated systems in accordance with Federal Information Security Modernization Act and National Institute of Standards and Technology requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. RNs and LPNs/LVNs who have applied for, are receiving, or have received financial incentive payments, including student loan repayment awards and incentive stipends, under the Nurses for Nursing Homes program.

2. Representatives of participating CMS-certified nursing facilities who interact with the Facility Portal for employment verification and vacancy management purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in this system include program applications and associated forms, documents, reports, correspondence, and payment records for the Nurses for Nursing Homes program. Data elements contained within these records include:

- Identity information: full legal name, date of birth, home address, personal email address, personal phone number, SSN/Taxpayer Identification Number (TIN), and identity proofing verification data collected through Identity Assurance Level 2 (IAL2)-certified Credential Service Providers; and

- Education and training information: nursing degree(s), institution(s) attended, graduation date(s), and relevant training certifications;

- Employment information: nursing license number and issuing state, employer name, nursing facility information including entity legal name, service/practice locations, CMS Certification Number (CCN), and nursing facility employer representative contact information (name, title, email address, and phone number) for individuals authorized to access the Facility Portal and submit employment verification and compliance updates on behalf of the facility; employment records; hours worked.

- Financial information:

- Bank account and routing numbers for Automated Clearing House/Electronic Funds Transfer (ACH/EFT) disbursement;

- Incentive payment amounts and disbursement records; and

- Tax record information (Form 1099 tax records);

- Student loan information: loan account number(s), loan balance, account status, and other information necessary to identify the and his/her loans for repayment purpose; and

- System and audit data: IP address and device data collected for fraud detection and audit logging purposes.

RECORD SOURCE CATEGORIES:

Records in this system are obtained directly from the subject individuals (*i.e.*, nurse applicants and participants who provide their own personal, professional, and financial information in connection with their application and participation in the Program), as well as from the following third-party sources:

- Participating nursing facilities and their authorized employer representatives, for employment verification, hours worked, and compliance reporting;

- CMS-approved Credential Service Providers, for identity attributes used in authentication and identity proofing;

- National Government Services (NGS/Wellpoint), for payment processing data;

- The Internal Revenue Service (IRS) and the Department of the Treasury, for TIN/SSN verification and tax reporting; and

State agencies, for enrollment and payment reporting related to state fund transfers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Privacy Act at 5 U.S.C. 552a(b)(3) allows us to disclose information to parties outside the agency without the subject individual's consent for a purpose that is compatible with the purpose(s) for which the information was collected, if a description of the disclosure is published as a "routine use" in the applicable System of Records Notice (SORN). The disclosures authorized by routine uses published pursuant to 5 U.S.C. 552a(b)(3) are in addition to other disclosures authorized directly in the Privacy Act at 5 U.S.C. 552a(b), which can also be made without the subject individual's consent.

The following routine uses are published for this system of records:

1. To support agency contractors, consultants, or others who have been engaged by the agency to assist with the accomplishment of a CMS function relating to the purposes of this system of records and who need to have access to the records to assist CMS, including the CMS-contracted companies or 3rd

party services used for ACH/EFT payment disbursements, financial operations, payment processing and tax reporting.

2. To the Department of Justice (DOJ) or to a court or other tribunal when HHS, or any component thereof, or any HHS employee in his or her official or individual capacity, or the United States Government, is a party to litigation or other proceedings and has an interest in such proceedings, and by careful review, HHS determines that the records are both relevant and necessary to the proceedings.

3. To another federal agency or instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers or that has the authority to investigate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, otherwise, responsible for enforcing, investigating, or prosecuting such violation, if the information is relevant to the enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity.

4. To the Internal Revenue Service (IRS) and the Department of the Treasury for federal tax reporting purposes, including W-2 (or Form 1099, pending final legal determination) issuance and Taxpayer Identification Number (TIN) verification, in accordance with applicable IRS regulations.

5. To CMS-contracted 3rd party services for the purpose of verifying the employment status and hours worked by nurse applicants and participants at participating nursing facilities.

6. To the CMS-contracted 3rd party services for the purpose of verifying the nursing licensure, credentials, and eligibility of nurse applicants and participants.

7. To state agencies for enrollment and payment reporting purposes and to facilitate state fund transfers related to the Nurses for Nursing Homes program.

8. To lending institutions and loan servicing agencies for the purpose of obtaining payoff balances on applicant and participant educational loans and determining whether loans are eligible for repayment under the program.

9. To the IRS about an individual applying under the program to determine if the applicant has a delinquent tax debt. This disclosure is for the sole purpose of determining the applicant's eligibility for funding.

10. To the HHS Office of Inspector General (OIG) or the Government Accountability Office (GAO) for audit,

oversight, and program integrity purposes.

11. To appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records, (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security, and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12. To another federal agency or federal entity, when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in hard copy files and/or electronic systems or media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by one or more of the following personal identifiers: participant full legal name; SSN or TIN; date of birth; nursing license number and issuing state; employer/facility CCN; Credential Service Provider identifiers or email address; and payment record number or Applicant/Participant ID number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The applicable schedules approved by the National Archives and Records Administration (NARA) is DAA-0440-2015-0008-0001 (Bucket 6)—Provider and Health Plan records, which includes provider applications and certifications; health plan records; program review and audit records; hearing files; and administrative records to be destroyed no sooner than seven years after cut-off, but longer retention is authorized.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Safeguards conform to the HHS Information Security and Privacy

Program, <https://www.hhs.gov/ocio/securityprivacy/index.html>. Information is safeguarded in accordance with applicable laws, rules and policies, including the HHS Information Technology Security Program Handbook; the E-Government Act of 2002, which includes the Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3541-3549, as amended by the Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551-3558; all pertinent NIST publications, and OMB Circular A-130, Managing Information As a Strategic Resource.

Records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include protecting the facilities where records are stored or accessed with security guards, badges and cameras, securing hard-copy records in locked file cabinets, file rooms or offices during off-duty hours, limiting access to electronic databases to authorized users based on roles and access control mechanisms (*i.e.*, username and password credentials), using a secured operating system protected by encryption, firewalls, and intrusion detection systems, requiring encryption for records stored on removable media, and training personnel in Privacy Act and information security requirements. Records that are eligible for destruction are disposed of using destruction methods prescribed by NIST SP 800-88, as revised.

RECORD ACCESS PROCEDURES:

An individual seeking access to records about the individual in this system of records must submit a written access request to the applicable System Manager identified in the "System Manager" Section indicated above. An access request must contain the requester's full name, address, email address or other contact information, and signature. To verify the requester's identity, the signature must be notarized, or the request must include the requester's written certification that the requester is the person the requester claims to be and that he/she understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to \$5,000. An individual may also request an accounting of disclosures that have been made of the records about the individual, if any.

CONTESTING RECORD PROCEDURES:

An individual seeking to amend a record about the individual in this system of records must submit a written amendment request to the System Manager identified in the "System Manager(s)" section. The request must contain the same information required for an access request, and must reasonably identify the record, specify the information contested, state the corrective action sought, provide the reasons for the amendment, and include any supporting justification or documentation. The individual must verify his or her identity in the same manner required for an access request. The right to contest records is limited to information that is factually inaccurate, incomplete, irrelevant, or obsolete.

NOTIFICATION PROCEDURES:

An individual who wishes to know if this system of records contains records about the individual must submit a written request to the System Manager identified in the "System Manager(s)" section. The request must contain the same information required for an access request, and the individual must verify their identity in the same manner required for an access request; see "Records Access Procedures" above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2026-17005 Filed 8-19-26; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****Privacy Act of 1974; System of Records**

AGENCY: Office of Family Assistance (OFA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Delay of the effective date of the new routine use under modified system of records.

SUMMARY: The Department of Health and Human Services (HHS) is delaying the effective date of the new routine use under the modified system of records maintained by the Office of Family Assistance (OFA) within HHS' Administration for Children and Families (ACF), System No. 09-80-0375, Temporary Assistance for Needy

Families (TANF) Data that appeared in the **Federal Register** of June 23, 2026.

DATES: ACF is delaying the effective date of the new routine use under the modified system of records published June 23, 2026 (91 FR 37406). In accordance with 5 U.S.C. 552a(e)(4) and (11), the notice was effective June 23, 2026, with the exception of subparagraph (a) under routine use 1 and the new routine use 10, which will now be effective September 30, 2026. The comment period closed August 11, 2026.

ADDRESSES: Comments received before the comment period closed August 11, 2026 are available at [regulations.gov](https://www.regulations.gov) for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT:

General questions about the modified system of records may be submitted by mail or email to TANF Data Division, Office of Family Assistance, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, or tanfdata@acf.hhs.gov; or may be submitted by telephone to John Talieri, Senior Official for Privacy, at (202) 969-3581.

Dated: August 17, 2026.

David M. Swegle,

Director, Office for Family Assistance, Administration for Children and Families.

[FR Doc. 2026-16933 Filed 8-19-26; 8:45 am]

BILLING CODE 4184-42-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. FDA-2026-N-0008]

Advisory Committee; Endocrinologic and Metabolic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Endocrinologic and Metabolic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the August 27, 2028, expiration date.

DATES: Authority for the Endocrinologic and Metabolic Drugs Advisory Committee will expire on August 27,

2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Advisory Committee Oversight and Management Staff, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3215, Silver Spring, MD 20993-0002, (301) 796-8220, ACOMSSubmissions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102-3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of at least six voting members including the Chair. Subject to legal and regulatory requirements, members and the Chair are selected by and serve at the discretion of the Commissioner or designee. Each member, including the Chair, will be selected from among authorities knowledgeable in the fields of endocrinology, metabolism, statistics, and related specialties.

Members may be invited to serve for terms of up to four years, or for less time in the discretion of the Commissioner or designee. Non-Federal members of this committee will serve as Special Government Employees or representatives. Federal members will serve as Regular Government Employees or Ex-Officios.

In addition to the voting members, the Commissioner or designee may identify consumer and/or industry representatives to join the Committee (or serve as alternate representatives) as non-voting representative member(s), via a process consistent with legal and regulatory requirements. Individuals currently employed at FDA-regulated companies, such as pharmaceutical and medical device manufacturers, shall not be selected to serve as members of the

Committee unless this Committee is expected to address issues for which inclusion of an industry representative is required by statute. If this Committee includes an industry representative, the Commissioner or designee will determine whether to invite them to participate in meetings on a case-by-case basis, according to applicable legal and regulatory requirements.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees to serve temporarily as voting members and to designate Special Government Employees to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking.

A quorum for the Committee is a majority of the current voting members present at the time, provided that FDA may specify a quorum that is less than a majority of the current voting members because of the size of the Committee and the variety in the types of issues that it will consider, or other reason determined appropriate in accordance with legal and regulatory requirements. 21 CFR 14.22(d).

If functioning as a medical device panel, an additional non-voting representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Members appointed to an advisory committee serve for the duration of the committee, or until their terms expire, they resign, or they are removed from membership by the Commissioner or designee. Committee members' terms may end prior to their date of expiration, for reasons determined to be good cause. Good cause includes excessive absenteeism from committee meetings, a demonstrated bias that interferes with the ability to render objective advice, failure to abide by established procedures, or violation of other applicable rules and regulations.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/endocrinologic-and-metabolic-drugs-advisory-committee/endocrinologic-and-metabolic-drugs-advisory-committee-charter> or by contacting the

Advisory Committee Oversight and Management Staff (see **FOR FURTHER INFORMATION CONTACT**). Because the committee's name and description of duties remain unchanged, 21 CFR 14.100 will not be amended.

Renewal Requirements and Justification: The Commissioner has determined that renewal of the Endocrinologic and Metabolic Drugs Advisory Committee is in the public interest. This determination is based on the Committee's essential role in providing independent expert advice on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders, the continued need for specialized expertise in this therapeutic area, and the Committee's demonstrated value in supporting FDA's regulatory mission. The following information supports this determination in accordance with applicable legal and regulatory requirements.

Public Interest Determination

Pursuant to 41 CFR 102–3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination approved by the head of the agency to the Secretariat with a copy to the Office of Management and Budget. In addition, pursuant to 41 CFR 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that renewing the committee is in the public interest:

1. Annual budget: The overall budget for this committee is \$99,088.

a. Federal personnel on a full-time equivalent (FTE) basis: The estimated person years of Federal staff support is 0.25 at an estimated annual cost of \$43,916.

b. Other Federal internal costs: The anticipated total value in USD of other internal costs, such as cost associated with IT supplies for meeting is \$18,606.

c. Proposed payments to members: The estimated annual payments to members are \$8,936.

d. Proposed number of members: The anticipated number of members is six.

e. Reimbursable costs: The estimated annual reimbursable costs, including travel and related expenses for members is \$13,004.

2. If applicable, the total dollar value of grants expected to be recommended during the fiscal year: N/A.

3. Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:

Ensuring Necessary Expertise: Members must have background, education, and experience commensurate with the committee's function of advising FDA on the existing and relevant evidence of benefits and risks of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders and related specialties. Scientific and technical competence is critical. Nominees should be acknowledged experts with demonstrated skills in critical evaluation of data and effective communication. As outlined in the committee charter, the membership should include authorities knowledgeable in the fields of endocrinology, metabolism, statistics, and related specialties, as well as needed consumer and industry representation. FDA also follows the requirements in section 505(n)(3) regarding membership of drug product advisory committees. (21 U.S.C. 355(n)(3)).

Ensuring Fair Balance:

Appointments are made without discrimination. The committee is reviewed in totality for balance, characterized by inclusion of necessary knowledge, insight, and scientific perspective from the relevant community or expertise area. Nominations are sought from all geographic locations within the United States and its territories, and from diverse sources including professional and scientific societies, academia, government agencies, industry and trade associations, consumer and patient organizations, and current Agency staff.

4. List of all other Federal advisory committees of the agency:

FDA maintains the following Federal advisory committees:

- Anesthetic and Analgesic Drug Products Advisory Committee
- Antimicrobial Drugs Advisory Committee
- Blood Products Advisory Committee
- Cellular Tissue and Gene Therapies Advisory Committee
- Dermatologic and Ophthalmic Drugs Advisory Committee
- Device Good Manufacturing Practice Advisory Committee

- Digital Health Advisory Committee
- Drug Safety and Risk Management Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Genetic Metabolic Disease Advisory Committee
- Medical Devices Advisory Committee
- National Mammography Quality Assurance Advisory Committee (Administratively Inactive)
- Nonprescription Drugs Advisory Committee
- Obstetrics, Reproductive and Urologic Drugs Advisory Committee
- Oncologic Drugs Advisory Committee
- Pediatric Advisory Committee
- Peripheral and Central Nervous System Advisory Committee
- Pharmacy Compounding Advisory Committee
- Psychopharmacologic Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee
- Risk Communication Advisory Committee (Administratively Inactive)
- Science Board to the Food and Drug Administration
- Technical and Electronic Product Radiation Safety Standards Advisory Committee
- Tobacco Products Scientific Advisory Committee
- Vaccines and Related Biological Products Advisory Committee

5. *Justification that the information or advice provided by the Federal advisory committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source:*

The Endocrinologic and Metabolic Drugs Advisory Committee provides independent expert advice to FDA on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

The topics considered by the Endocrinologic and Metabolic Drugs Advisory Committee require specialized expertise in the fields of endocrinology, metabolism, statistics, and related specialties that is not within the primary scope of other FDA advisory committees. Potential topics that may need committee input include products related to the topics outlined in Section (6) below. These and other issues cannot be appropriately addressed by another standing committee without diminishing the depth and relevance of the expert input provided to the Agency.

6. *If the consultation is a committee renewal, a summary of the previous*

accomplishments of the committee and the reasons it needs to continue
Summary of previous
Accomplishments:

For the last three years, EMDAC met four times:

On October 31, 2024, the committee discussed the clinical benefits of sotagliflozin oral tablets on hemoglobin A1c (A1C) in patients with estimated glomerular filtration rates (eGFR) below 60 mL/min, and whether these benefits are greater in patients with type 1 diabetes (T1D) and chronic kidney disease (CKD) compared to those without CKD. Safety concerns were raised regarding the incidence and severity of diabetic ketoacidosis (DKA) in T1D patients with CKD treated with sotagliflozin. Following deliberation, the committee voted 11 to 3 that the available data did not demonstrate that the benefits of sotagliflozin outweigh the risks for the indication of improving glycemic control in patients with T1D and CKD.

On May 24, 2024, the committee discussed the safety and efficacy of biologics license application 761326 for NNC0148–0287 injection (insulin icodec), a long-acting insulin analog product, submitted by Novo Nordisk. The proposed indication is to improve glycemic control in adults with diabetes mellitus. The majority of the committee voted unfavorably, indicating that the Applicant did not demonstrate that the benefits of insulin icodec outweigh the risks for improving glycemic control in adults with Type 1 diabetes.

On September 21, 2023, the committee discussed the safety and efficacy of ITCA 650 (exenatide in DUROS device), a drug-device combination product that is the subject of a new drug application (NDA) submitted by Intarcia Therapeutics, Inc. (Intarcia) (NDA 209053), for the proposed indication, as an adjunct to diet and exercise, to improve glycemic control in adults with type 2 diabetes mellitus. The meeting was held pursuant to a March 24, 2023, letter from the Chief Scientist of FDA, Dr. Namandjé N. Bumpus, wherein she granted Intarcia's request under 21 CFR 12.32(b)(3)(ii) for a public hearing before an advisory committee in lieu of a formal evidentiary hearing. Intarcia requested a public hearing before an advisory committee on CDER's proposal to refuse approval of Intarcia's NDA for ITCA 650 (see Docket No. FDA–2021–N–0874). Unanimously, the committee voted “No” that based on the data shown, the Applicant failed to demonstrate that the benefits of the ITCA 650 drug-device combination

product outweigh its risks for the treatment of type 2 diabetes mellitus.

On June 28, 2023, the committee discussed new drug application (NDA) 215559, for palovarotene capsules, submitted by Ipsen Biopharmaceuticals, Inc. The proposed indication is the prevention of heterotopic ossification in adults and children (females aged 8 years and above and males 10 years and above) with fibrodysplasia ossificans progressiva (FOP). The majority of the Committee voted “Yes” that palovarotene was shown effective in FOP patients and the clinical benefits outweigh its risks for the treatment of patients diagnosed with FOP.

Impact: On August 16, 2023, the Agency approved Sohonos™ (palovarotene) capsules for the reduction in volume of new heterotopic ossification in adults and pediatric patients aged 8 years and older for females and 10 years and older for males with fibrodysplasia ossificans progressiva (FOP). This is the first and only drug (retinoid) of its class to show reduction of abnormal bone growth in FOP patients, while improving mobility and quality of life.

All meetings don't conclude with favorable recommendations, as shown above. Members may require more studies to inform recommendations on the benefits and risks of the product. But patients benefit from this committee's review and evaluation of drug products for endocrine and metabolic disorders/diseases. Future topics on which FDA may seek input from this committee include the following: obesity disorders in pediatrics, glycemic management in type 1 diabetes mellitus, type 2 diabetes, and other related issues.

7. *Explanation of why the committee/subcommittee is essential to the conduct of agency business:*

Reasons for Continuation:

The committee plays a critical role in enabling FDA to meet the requirements of sections 505(n)(1) and (s)(1) of the Federal Food, Drug, and Cosmetic Act by providing expert scientific advice and recommendations. Without the Endocrinologic and Metabolic Drugs Advisory Committee, FDA's ability to obtain external expert input on issues related to the approval and regulation of the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders would be significantly limited.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be

obtained is not already available through another advisory committee or source within the Federal Government.

This notice is issued under the Federal Advisory Committee Act as amended (5 U.S.C. 1001 *et seq.*). For general information related to FDA advisory committees, please visit us at <http://www.fda.gov/AdvisoryCommittees/default.htm>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-16998 Filed 8-19-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-D-4311]

Frequently Asked Questions—Developing Potential Cellular and Gene Therapy Products; Final Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance titled “Frequently asked Questions—Developing Potential Cellular and Gene Therapy Products.” The guidance document provides industry with answers to frequently asked questions (FAQs) and commonly faced issues that arise during the development of cellular and gene therapy (CGT) products. The FAQs represent common questions directed to the Agency and span multiple disciplines, including regulatory review; chemistry, manufacturing, and controls (CMC); pharmacology/toxicology; clinical; and clinical pharmacology. This guidance announced in this notice finalizes the draft guidance of the same title issued on November 19, 2024.

DATES: The announcement of the guidance is published in the **Federal Register** on August 20, 2026.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically,

including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2024-D-4311 for “Frequently asked Questions—Developing Potential Cellular and Gene Therapy Products.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information

redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3103, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Myrna Hanna, Center for Biologics Evaluation and Research, Food and Drug Administration, industry.biologics@fda.hhs.gov, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document titled “Frequently asked Questions—Developing Potential Cellular and Gene Therapy Products.” The guidance document provides industry with answers to FAQs and commonly faced issues that arise during the development of CGT products. The FAQs represent common questions

directed to the Agency and span multiple disciplines, including regulatory review; CMC; pharmacology/toxicology; clinical; and clinical pharmacology.

The guidance was created as part of FDA's response to the Prescription Drug User Fee Act (PDUFA) VII commitment to increase efficiency and to support development of CGT products by providing a repository of common questions posed to the Office of Therapeutic Products by sponsors and other key stakeholders. The Agency compiled FAQs received from a variety of sources, including FDA interactions with sponsors in development programs.

The guidance covers relevant, current, and timely topics related to the development of CGT products, which may be updated to include additional FAQs as appropriate. Sponsors are encouraged to visit the Cellular and Gene Therapy Guidances web page on the FDA website for a full list of finalized as well as draft guidances relevant to the development of CGT products.

In the **Federal Register** of November 19, 2024 (89 FR 91404), FDA announced the availability of the draft guidance of the same title dated November 19, 2024. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes adding additional FDA resources and addressing typos. In addition, editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated November 19, 2024.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on "Frequently asked Questions—Developing Potential Cellular and Gene Therapy Products." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312

pertaining to investigational new drug applications, clinical trials, clinical trial design, meetings with FDA, and Form FDA 1571, have been approved under OMB control number 0910–0014. The collections of information in section 402(j)(5)(B) of the Public Health Service Act (42 U.S.C. 282(j)(5)(B)), which requires certification that all applicable requirements of section 402(j) have been met on Form FDA 3674, and the collections of information in 21 CFR part 601 pertaining to the submission of biologics license applications and Form FDA 356h have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–16959 Filed 8–19–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–D–8561]

Potency Assessment of Active Immunotherapy Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document titled "Potency Assessment of Active Immunotherapy Products." The draft guidance document provides recommendations for developing assays to assess potency as a part of a potency assurance strategy for active immunotherapy products (ACTIMPs). When finalized, this guidance will describe the FDA's current thinking regarding design, validation, and evaluation of potency tests for ACTIMPs. This guidance is intended to supplement the December 2023 draft guidance for industry, when finalized, on "Potency Assurance for Cellular and Gene Therapy Products" with additional advice and considerations specifically for ACTIMPs, including

peptide- and-protein based ACTIMPs that are not cellular or gene therapy products.

DATES: Submit either electronic or written comments on the draft guidance by November 18, 2026 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2026–D–8561 for "Potency Assessment of Active Immunotherapy Products." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the

Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Janet Goldberg, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document titled “Potency Assessment of Active Immunotherapy Products.” The draft guidance document provides recommendations for developing assays¹ to assess potency² as a part of a potency assurance strategy for ACTIMPs.³ When finalized, this guidance will describe the FDA’s current thinking regarding design, validation, and evaluation of potency tests for ACTIMPs. This guidance is intended to supplement the December 2023 draft guidance for industry, when finalized, on “Potency Assurance for Cellular and Gene Therapy Products” (Ref. 1) with additional advice and considerations specifically for ACTIMPs, including peptide- and protein-based ACTIMPs that are not cellular or gene therapy products (Ref. 2).

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Potency Assessment of Active Immunotherapy Products.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to

¹ For the purposes of this guidance document, the term “assay” is synonymous with the terms “test” and “analytical procedures”.

² As defined in 21 CFR 600.3(s), “potency” is interpreted to mean “the specific ability or capacity of the product, as indicated by appropriate laboratory tests or by adequately controlled clinical data obtained through the administration of the product in the manner intended, to effect a given result.”

³ Active immunotherapy refers to the process of inducing an immune-mediated antigen-specific therapeutic effect in the human body. Active immunotherapy products activate or modulate the immune system to treat preexisting conditions. The effects of active immunotherapies on the immune system may persist even after the product is no longer detectable in the body.

review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR parts 210 and 211 pertaining to manufacturing, processing, packing, and holding of finished pharmaceuticals and biological products for human use (CGMP regulations) have been approved under OMB control number 0910–0139. The collections of information in 21 CFR 312.23(a)(7)(i) pertaining to submission of proper identification, quality, purity, and strength of an investigational drug in an IND application have been approved under OMB control number 0910–0014. The collections of information in 21 CFR 600.14(b) pertaining to biological product deviation reporting is included in OMB control number 0910–0458. The collections of information in 21 CFR part 601 pertaining to biological license applications have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. FDA, “Potency Assurance for Cellular and Gene Therapy Products; Draft Guidance for Industry” December 28, 2023. Available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/potency-assurance-cellular-and-gene-therapy-products>.
2. FDA, “Application of Current Statutory Authorities to Human Somatic Cell Therapy Products and Gene Therapy Products” October 14, 1993. Available at <http://www.fda.gov/downloads/BiologicsBloodVaccines/SafetyAvailability/UCM148113.pdf>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–16960 Filed 8–19–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****[Docket No. FDA-2026-N-0008]****Advisory Committee; Cardiovascular and Renal Drugs Advisory Committee; Renewal****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Cardiovascular and Renal Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Cardiovascular and Renal Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the August 27, 2028, expiration date.

DATES: Authority for the Cardiovascular and Renal Drugs Advisory Committee will expire on August 27, 2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Advisory Committee Oversight and Management Staff, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3215, Silver Spring, MD 20993-0002, (301) 796-8220, ACOMSSubmissions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102-3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Cardiovascular and Renal Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and kidney diseases and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of at least six voting members including

the Chair. Subject to legal and regulatory requirements, members and the Chair are selected by and serve at the discretion of the Commissioner or designee. Each member, including the Chair, will be selected from among authorities knowledgeable in the fields of cardiology, nephrology, and related specialties.

Members may be invited to serve for terms of up to four years, or for less time in the discretion of the Commissioner or designee. Non-Federal members of this committee will serve as Special Government Employees or representatives. Federal members will serve as Regular Government Employees or Ex-Officios.

In addition to the voting members, the Commissioner or designee may identify consumer and/or industry representatives to join the Committee (or serve as alternate representatives) as non-voting representative member(s), via a process consistent with legal and regulatory requirements. Individuals currently employed at FDA-regulated companies, such as pharmaceutical and medical device manufacturers, shall not be selected to serve as members of the Committee unless this Committee is expected to address issues for which inclusion of an industry representative is required by statute. If this Committee includes an industry representative, the Commissioner or designee will determine whether to invite them to participate in meetings on a case-by-case basis, according to applicable legal and regulatory requirements.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees to serve temporarily as voting members and to designate Special Government Employees to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking.

A quorum for the Committee is a majority of the current voting members present at the time, provided that FDA may specify a quorum that is less than a majority of the current voting members because of the size of the Committee and the variety in the types of issues that it will consider, or other reason determined appropriate in accordance with legal and regulatory requirements. 21 CFR 14.22(d).

If functioning as a medical device panel, an additional non-voting representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Members appointed to an advisory committee serve for the duration of the committee, or until their terms expire, they resign, or they are removed from membership by the Commissioner or designee. Committee members' terms may end prior to their date of expiration, for reasons determined to be good cause. Good cause includes excessive absenteeism from committee meetings, a demonstrated bias that interferes with the ability to render objective advice, failure to abide by established procedures, or violation of other applicable rules and regulations.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/cardiovascular-and-renal-drugs-advisory-committee/cardiovascular-and-renal-drugs-advisory-committee-charter> or by contacting the Advisory Committee Oversight and Management Staff (see **FOR FURTHER INFORMATION CONTACT**). Because the committee's name and description of duties remain unchanged, 21 CFR 14.100 will not be amended.

Renewal Requirements and Justification: The Commissioner has determined that renewal of the Cardiovascular and Renal Drugs Advisory Committee is in the public interest. This determination is based on the Committee's essential role in providing independent expert advice on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and kidney diseases, the continued need for specialized expertise in this therapeutic area, and the Committee's demonstrated value in supporting FDA's regulatory mission. The following information supports this determination in accordance with applicable legal and regulatory requirements.

Public Interest Determination

Pursuant to 41 CFR 102-3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination approved by the head of the agency to the Secretariat with a copy to the Office

of Management and Budget. In addition, pursuant to 41 CFR 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that renewing the committee is in the public interest:

1. *Annual budget:* The overall budget for this committee is \$80,651.

a. *Federal personnel on a full-time equivalent (FTE) basis:* The estimated person years of Federal staff support is 0.25 at an estimated annual cost of \$43,916.

b. *Other Federal internal costs:* The anticipated total value in USD of other internal costs, such as cost associated with IT and supplies for meetings, is \$18,529.

c. *Proposed payments to members:* The estimated annual payment to members is \$4,468.

d. *Proposed number of members:* The anticipated number of members is six.

e. *Reimbursable costs:* The estimated annual reimbursable costs, including travel and related expenses for members are \$6,456.

2. *If applicable, the total dollar value of grants expected to be recommended during the fiscal year:* N/A.

3. *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:*

Ensuring Necessary Expertise:

Members must have background, education, and experience commensurate with the committee's function of advising FDA on the existing and relevant evidence of benefits and risks of marketed and investigational human drug products for use in cardiovascular and kidney diseases and related specialties. Scientific and technical competence is critical. Nominees should be acknowledged experts with demonstrated skills in critical evaluation of data and effective communication. As outlined in the committee charter, the membership should include authorities knowledgeable in the fields of cardiology, nephrology, and related specialties, as well as needed consumer and industry representation. FDA also follows the requirements in section 505(n)(3) regarding membership of drug product advisory committees. (21 U.S.C. 355(n)(3)).

Ensuring Fair Balance:

Appointments are made without discrimination. The committee is reviewed in totality for balance, characterized by inclusion of necessary knowledge, insight, and scientific perspective from the relevant community or expertise area. Nominations are sought from all geographic locations within the United States and its territories, and from diverse sources including professional and scientific societies, academia, government agencies, industry and trade associations, consumer and patient organizations, and current Agency staff.

4. *List of all other Federal advisory committees of the agency:*

FDA maintains the following Federal advisory committees:

- Anesthetic and Analgesic Drug Products Advisory Committee
- Antimicrobial Drugs Advisory Committee
- Blood Products Advisory Committee
- Cellular Tissue and Gene Therapies Advisory Committee
- Dermatologic and Ophthalmic Drugs Advisory Committee
- Device Good Manufacturing Practice Advisory Committee
- Digital Health Advisory Committee
- Drug Safety and Risk Management Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Genetic Metabolic Disease Advisory Committee
- Medical Devices Advisory Committee
- National Mammography Quality Assurance Advisory Committee (Administratively Inactive)
- Nonprescription Drugs Advisory Committee
- Obstetrics, Reproductive and Urologic Drugs Advisory Committee
- Oncologic Drugs Advisory Committee
- Pediatric Advisory Committee
- Peripheral and Central Nervous System Advisory Committee
- Pharmacy Compounding Advisory Committee
- Psychopharmacologic Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee
- Risk Communication Advisory Committee (Administratively Inactive)
- Science Board to the Food and Drug Administration
- Technical and Electronic Product Radiation Safety Standards Advisory Committee
- Tobacco Products Scientific Advisory Committee
- Vaccines and Related Biological Products Advisory Committee

5. *Justification that the information or advice provided by the Federal advisory*

committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source:

The Cardiovascular and Renal Drugs Advisory Committee provides independent expert advice to FDA on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and kidney diseases.

The topics considered by the Cardiovascular and Renal Drugs Advisory Committee require specialized expertise in the fields of cardiology, nephrology, and related specialties that is not within the primary scope of other FDA advisory committees. Potential topics that may need committee input include products related to the topics outlined in Section (6) below. These and other issues cannot be appropriately addressed by another standing committee without diminishing the depth and relevance of the expert input provided to the Agency.

6. *If the consultation is a committee renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue:*

Summary of previous Accomplishments:

The Cardiovascular and Renal Drugs Advisory Committee convened twice during the last three years to discuss the drug safety and efficacy of two new drug applications that would impact the management of Barth Syndrome and cardiomyopathy of wild-type or hereditary transthyretin-mediated amyloidosis in adults. Both indications are rare life-threatening diseases that affect a small population. Both products (Forzinity and Onpatro) reviewed were found clinically beneficial to the populations studied and are currently approved for use. Forzinity™ was an orphan product seeking accelerated approval. Forzinity™ was approved on September 19, 2025; it is the first treatment for Barth's Syndrome.

Patients benefit from this committee's review and evaluation of cardiology, nephrology and related specialties. This Committee generally meets twice per fiscal year. There is no other committee within the Agency that can address related issues without diminishing the depth and relevance of the expert input provided to the Agency. Topics on which FDA may seek input from this committee include the following: IgA nephropathy, chronic kidney disease (CKD) across diverse patient populations, and difficult to manage (refractory and resistant) hypertension.

7. *Explanation of why the committee/subcommittee is essential to the conduct of agency business:*

Reasons for Continuation:

The committee plays a critical role in enabling FDA to meet the requirements of sections 505(n)(1) and (s)(1) of the Federal Food, Drug, and Cosmetic Act by providing expert scientific advice and recommendations. Without the Cardiovascular and Renal Drugs Advisory Committee, FDA's ability to obtain external expert input on issues related to the approval and regulation of the safety and effectiveness of marketed and investigational human drug products for use in the practice of cardiology and nephrology would be significantly limited.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

This notice is issued under the Federal Advisory Committee Act as amended (5 U.S.C. 1001 *et seq.*). For general information related to FDA advisory committees, please visit us at <http://www.fda.gov/AdvisoryCommittees/default.htm>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-16999 Filed 8-19-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Black Lung Clinics Program Performance Measures

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB.

OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than September 21, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443-9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Black Lung Clinics Program Performance Measures, OMB No. 0915-0292—Revision.

Abstract: The Black Lung Clinics Program (BLCP) is authorized under Sec. 427(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 937(a)) and accompanying regulations (42 CFR part 55a). The purpose of the BLCP is to reduce the morbidity and mortality associated with occupationally related coal mine dust lung disease through the screening, diagnosis, and treatment of active, inactive, retired, and/or disabled coal miners. HRSA currently collects information about BLCP awards using an OMB-approved set of performance measures and seeks to revise the approved collection. The proposed changes are a result of keeping this instrument relevant, responsive to the BLCP needs and to improve clarity and ease of reporting for respondents.

A 60-day notice published in the **Federal Register** on March 31, 2026, vol. 91, No. 61; pp. 16008–16009. There were no public comments.

Need and Proposed Use of the Information: HRSA has revised the performance measures which BLCP awardees will submit to HRSA on an annual basis. The purpose of the revised

data collection is to assess BLCP awardees' progress toward meeting BLCP program goals (as stated in the authorizing statute) and how well each awardee is meeting the needs of these miners in their communities. The proposed changes include deleting five questions, adding three new questions, and changing three existing questions. These updates were made to streamline data collection and improve usability. Clinical diagnosis fields will be consolidated into a single datapoint, replacing separate fields for primary, secondary, and other diagnoses. The difference between these categories was often subjective, limiting HRSA's ability to use the data to monitor for black lung rates. Filling out three separate questions about diagnoses was also burdensome for clinics. Additionally, COVID-related data fields are removed due to decreased relevance, reducing the reporting burden on awardees. A new cardiology diagnosis field is added to better capture conditions closely linked to pulmonary disease and assist HRSA in tracking population needs and making relevant programmatic updates based on those needs. Benefits counseling measures are also enhanced to collect filing dates and case status details. This update will help HRSA track case timelines, which translates to better monitoring of implementation of benefits counseling services. These changes strengthen HRSA's monitoring and assessment of the impact of the BLCP program and ensure that funds are effectively used to provide services that meet the target population's needs. There is no change in the burden hours.

Likely Respondents: Respondents will be the BLCP award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Black Lung Clinics Program Performance Measures	15	1	15	7	105
Total	15	1	15	7	105

Maria G. Button,*Director, Executive Secretariat.*

[FR Doc. 2026-17009 Filed 8-19-26; 8:45 am]

BILLING CODE 4165-15-P**DEPARTMENT OF HEALTH AND HUMAN SERVICES****National Institutes of Health****Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Contracts: NIH Tetramer Core Facility.

Date: September 18, 2026.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-451-1120, fdesilva@mail.nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Clinical Data Management and Analysis Study Section.

Date: September 23-24, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Shivakumar V. Chittari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-827-8261, chittari.shivakumar@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-DC-25-005: In Vivo High-Resolution Imaging for Inner Ear Visualization.

Date: September 24, 2026.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Debanjan Goswami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Office 810-G, Bethesda, MD 20892, 301-451-1587, debanjan.goswami@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Services Research in Mental Health and Substance Use Disorders.

Date: September 28-29, 2026.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jeanne Marie McCaffery, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-3854, jeanne.mccaffery@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Maximizing Investigators' Research Award—F Study Section.

Date: September 29-30, 2026.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Brian Paul Chadwick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-594-3586, chadwickbp@csr.nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group;

Genomics, Computational Biology and Technology Study Section Genomics, Computational Biology and Technology.

Date: October 8-9, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301-827-7088, methode.bacanamwo@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Academic Industrial Partnerships for Translation of Medical Technologies.

Date: October 8-9, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, Bethesda, MD 20892, 301-435-1170, luow@csr.nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Bioengineering, Technology and Surgical Sciences Study Section.

Date: October 13-14, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, Bethesda, MD 20892, 301-435-2392, masoodk@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 14, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–16957 Filed 8–19–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center or Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–MD–26–001: Research Centers in Minority Institutions (RCMI) Coordinating Center (U24).

Date: September 3, 2026.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Heidi B. Friedman, Ph.D., Senior Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 907–H, Bethesda, MD 20892, (301) 827–3055, hfriedman@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Institutional Training Grants (T32) in Digestion and Nutrition.

Date: September 23, 2026.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Charlene J. Repique, MS, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8858, repiqueschrodj@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Gut-Brain,

Neuro-Immune and Multi-Organ Interactions in GI Biology.

Date: September 24, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–3919, lourdes.ponce@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Experimental Therapeutics Clinical Trials Network.

Date: September 25, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Tushar Baran Deb, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–6132, tushar.deb@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training and Career Development: Cancer Research Training.

Date: October 7, 2026.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 402–5869, klaus.piontek@nih.gov.

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Mechanisms of Cancer Therapeutics C Study Section.

Date: October 14–15, 2026.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Gloria Huei-Ting Su, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–496–0465, gloria.su@nih.gov.

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Mechanisms of Cancer Therapeutics B Study Section.

Date: October 15–16, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Maria Dolores Arjona Mayor, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 806D, Bethesda, MD 20892, (301) 827–8578, dolores.arjonamayor@nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Pain and Itch Study Section.

Date: October 19–20, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Center or Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3583, tandlea@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Early Development of Vaccines Against Infectious Diseases.

Date: October 19–20, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Vanitha Sundaresa Raman, Ph.D., Scientific Review Officer, Center or Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–3950, vanitha.raman@nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Digestive System Host Defense, Microbial Interactions and Immune and Inflammatory Disease Study Section.

Date: October 22–23, 2026.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, Bethesda, MD 20892 301–827–4417, jianxinh@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Development and Translational Cancer Research.

Date: October 22–23, 2026.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Viktoriya Sidorenko, Ph.D., Health Science Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, National Cancer Institute, NIH, Bethesda, MD 20892, (301) 827-3129, viktoriya.sidorenko@nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Cell Structure and Function 1 Study Section.

Date: October 22–23, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jessica Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-3717, jessica.smith6@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 17, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-16958 Filed 8-19-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PARs: High End, Shared and Basic Instrumentation Microscopy.

Date: September 22–23, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Khalida Shamim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-5013, khalida.shamim@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Research Enhancement Award and SuRE Programs.

Date: September 24, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Byung Min Chung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive/Room 806-A, Bethesda, MD 20817, (301) 496-4056, justin.chung@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-25-226: Clinical Trial-Alzheimer's Disease.

Date: September 24, 2026.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nesar Uddin Akanda, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-4508, akandanu@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-MH-25-110: BRAIN Initiative: Data Archives for the BRAIN Initiative (R24).

Date: September 25, 2026.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Michael Eric Authement, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451-1175, michael.authement@nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services: Quality and Effectiveness Study Section.

Date: September 29–30, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Angela D. Thrasher, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 480-6894, thrasherad@csr.nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Vaccines Against Infectious Diseases Study Section.

Date: October 15–16, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 827-3396, wangjia@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Digestion and Nutrition.

Date: October 15–16, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Charlene J Repique, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-8858, charlene.repique@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Career Development.

Date: October 21–22, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Tushar Baran Deb, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Rockville, MD 20850, (240) 276-6132, tushar.deb@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Exploratory Research in Cancer Immunology and Immunotherapy.

Date: October 21–22, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451-0398, jfang@mail.nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of

Interception and Chemosensation Study Section.

Date: October 26–27, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Myongsoo Matthew Oh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011F, Bethesda, MD 20892, (301) 451-7968, ohmm@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 18, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-17017 Filed 8-19-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2026-0133; OMB No. 1660-0029]

Agency Information Collection Activities: Submission for OMB Review, Comment Request; Approval and Coordination of Requirements To Use the NETC for Extracurricular and Training Activities

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the request form by the National Emergency Training Center (NETC) for housing accommodations.

DATES: Comments must be submitted on or before September 21, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Kimberly Harbaugh, Administrative Specialist, U.S. Fire Administration, at kimberly.harbaugh@fema.dhs.gov or 301-447-1223.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121–5207) authorizes the President to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes training and exercises. Section 611 of the Stafford Act (42 U.S.C. 5196) directs that FEMA may conduct training for the purpose of emergency preparedness. In response, FEMA established the NETC, located in Emmitsburg, Maryland. The NETC site has facilities and housing available for those participating in preparedness training and a request for use of these areas is required to be made in advance for the need for such.

The NETC is a FEMA facility which houses FEMA employees from headquarters, regions, field establishments, and other individuals and organizations authorized to use the facilities. The responsibilities, procedures, and potential fees charged for using the NETC facilities are identified in accordance with FEMA Directive Number 119-3, *Facility Use and Expenses at the National Emergency Training Center* dated May 21, 2018. The NETC provides training and educational programs in emergency response, preparedness, fire prevention and control, disaster response, and long-term disaster recovery. The principal purpose of FEMA Form FF-USFA-FY-21-107 (formerly 119-17-1), Request for Housing Accommodations, is to request housing at the NETC.

This proposed information collection previously published in the **Federal Register** on June 1, 2026, at 91 FR 32410 with a 60-day public comment period.

No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Approval and Coordination of Requirements to Use the NETC Extracurricular for Training Activities.

Type of Information Collection: Extension, without changes, of a currently approved information collection.

OMB Number: 1660-0029.

FEMA Forms: FEMA Form FF-USFA-FY-21-107 (formerly 119-17-1), Request for Housing Accommodations.

Abstract: In accordance with FEMA Directive 119-3: *Facility Use and Expenses at the National Emergency Training Center* dated May 21, 2018, FEMA Form USFA-FY-21-107 (formerly 119-17-1), Request for Housing Accommodations, has been used by attendees at functions held at the NETC to secure housing.

Affected Public: Individuals or Households; Federal Government.

Estimated Number of Respondents: 60.

Estimated Number of Responses: 60.

Estimated Total Annual Burden Hours: 6.

Estimated Total Annual Respondent Cost: \$216.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$959.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Nigel S. Allicock,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026-16987 Filed 8-19-26; 8:45 am]

BILLING CODE 9111-45-P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA-2003-14610]

Extension of Agency Information Collection Activity Under OMB Review: Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Driver's License

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652-0027, abstracted below to OMB for review and approval of extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of biometric and biographic information that TSA uses to verify identity and conduct a Security Threat Assessment (STA), used to issue a Hazardous Materials Endorsement to the Commercial Driver's License, and a customer satisfaction survey.

DATES: Send your comments by September 21, 2026. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the find function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology, TSA-11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598-6011; telephone

(571) 227-2062; email TSAPRA@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice soliciting comments for a 60-day period on May 5, 2026, 91 FR 24595. TSA did not receive any comments on the notice.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <https://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

- (1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Driver's License.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652-0027.

Form(s): Hazardous Materials Endorsement (HME) Threat Assessment Program Disclosure and Certification Form, HME Pre-Enrollment Application, HME Enrollment Application, and HME Customer Satisfaction Survey

Affected Public: Drivers seeking an HME on their state-issued Commercial Driver's License (CDL).

Abstract: This collection supports the implementation of sec. 1012 of the USA PATRIOT Act,¹ which mandates that no state or the District of Columbia may issue an HME on a CDL unless TSA has first determined the driver is not a threat to transportation security. TSA's implementing regulations (codified at 49 CFR part 1572) describe the

procedures, standards, and eligibility criteria for STAs on individuals seeking to obtain, renew, or transfer an HME on a state-issued CDL. To conduct the STA for the HME, states (or a TSA-designated agent in states that elect to have TSA perform the collection of information) must collect certain biographic and biometric information. The HME must be renewed every 5 years. The driver is required to submit an application that includes personal information including driver's legal name; current and previous mailing addresses; date of birth; sex; height, weight, eye, and hair color; city, state, and country of birth; social security number (optional); immigration status; mental incapacity; criminal history; and biometrics, such as fingerprints.

States or the TSA agent must also submit whether the driver is a new applicant or applying to renew or transfer the HME. This information is necessary for TSA to forecast driver retention, transfer rate, and drop rate to help improve customer service and reduce program costs. This information also may be necessary to provide comparability with other federal background checks, including the Transportation Worker Identification Credential.

When the STA is complete, TSA makes a final determination of eligibility for the HME and notifies states of its decision and may provide notifications to the HME applicants of its decision. Most states and applicants will receive notification from TSA within 2 to 3 weeks of the submission of their completed applications. If TSA identifies potentially disqualifying information, it will send a Preliminary Determination of Ineligibility letter to the HME applicant with instructions on how to proceed. If initially deemed ineligible by TSA, applicants will have an opportunity to apply for an appeal or waiver. Applicants must submit a request for an appeal or waiver within 60 days of issuance of the Preliminary Determination of Ineligibility. If a request for an appeal or waiver is not received by TSA within the specified amount of time, the agency may make a final determination to deny eligibility.

In 2023, OIRA approved three changes to the program: (1) online renewal capability; (2) enrollment in Rap Back; and (3) expanding enrollment options by offering applicants the ability to enroll in multiple programs with one application at the same time. *See* ICR-202112-1652-003. TSA is in the process of implementing these changes.

Finally, TSA invites all HME applicants who enroll using TSA's enrollment provider to complete an

¹ Public Law 107-56 (115 Stat. 272, 396; Oct. 26, 2001) as codified at 49 U.S.C. 5103a.

optional survey to gather information on the applicant's overall customer satisfaction with the enrollment process. This optional survey is administered at the conclusion of the enrollment process, including the new online renewals, where applicable. The results from these surveys are compiled to produce reports that are reviewed by the enrollment services provider and TSA.

Estimated Annual Number of Respondents: 238,520.

Estimated Annual Burden Hours: 256,416.

Estimated Annual Cost: \$9.8 million.

Dated: August 18, 2026.

Christina A. Walsh,

*Paperwork Reduction Act Officer,
Information Technology, Transportation
Security Administration.*

[FR Doc. 2026-16991 Filed 8-19-26; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6560-N-03]

Tribal Intergovernmental Advisory Committee (TIAC) Fall 2026 Meeting

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of HUD's TIAC.

DATES: The meeting will be held on Thursday, September 3, 2026. The session will begin at approximately 9:00 a.m. EDT and adjourn at approximately 5 p.m. EDT.

ADDRESSES: The meeting will take place at the DoubleTree by Hilton Hotel, 300 Army Navy Drive in Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Hilary Atkin, Acting Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Room E12445, Alexandria, VA 22314. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

On March 31, 2022 (87 FR 18807), HUD published a notice in the **Federal**

Register that announced the final structure of the TIAC and requested the submission of Tribal nominations to the TIAC. On November 29, 2022, HUD published a notice (87 FR 73317) announcing the TIAC membership. Thus, to strengthen HUD's engagement with Tribal Nations, HUD established its first Tribal advisory committee. The first in-person TIAC meeting was held on Wednesday, April 12, 2023, and Thursday, April 13, 2023, in Washington, DC. On September 27, 2023, and September 28, 2023, the second in-person meeting of the TIAC was held in Tucson, Arizona. On May 15, 2024, and May 16, 2024, the third in-person meeting was held in Washington, DC. On September 11, 2024, and September 12, 2024, the fourth in-person meeting was held in Fort Worth, Texas. On September 10, 2025, the fifth in-person meeting was held in Washington, DC.

II. Next Committee Meeting

The next in-person meeting will be held on Thursday, September 3, 2026. The meeting will be held at the DoubleTree by Hilton Hotel, 300 Army Navy Drive in Arlington, VA 22202.

The Committee will operate under the Tribal government statutory exemption to the Federal Advisory Committee Act (FACA) found in the Unfunded Mandates Reform Act (UMRA) at 2 U.S.C. 1534(b). Accordingly, participation in the meeting is limited to TIAC members. Members of the public may not formally participate in the meeting or make statements during the meeting.

III. Future Committee Meetings

Decisions with respect to future meetings will be made from time to time. Notices of all future meetings will be published in the **Federal Register**. HUD will make every effort to publish such notices at least 30 calendar days prior to each meeting.

Benjamin Hobbs,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2026-16963 Filed 8-19-26; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407-014-004-065516, #O2509-014-004-125222; LLNM931000]

Filing Plats of Survey; New Mexico, Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey and the supplemental plat of the following described lands are scheduled to be officially filed 30 calendar days after the date of this publication in the Bureau of Land Management (BLM) New Mexico State Office. The surveys and plat announced in this notice are necessary for the management of these lands.

DATES: Protests must be received by the BLM New Mexico State Office prior to the scheduled date of official filing, September 21, 2026.

ADDRESSES: A copy of the survey records may be obtained from the Public Room at the BLM New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Jacob B. Barowsky, BLM Chief Cadastral Surveyor for New Mexico and Oklahoma, 505-761-8903, jbarowsky@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunication relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lands surveyed are represented on the plats described below:

New Mexico Principal Meridian, New Mexico

The dependent resurvey and survey in the Ramon Vigil Grant, Township 19 North, Ranges 6 & 7 East, and the survey of a portion of the Los Alamos National Laboratory Parcel, under Group No. 1206, New Mexico, accepted July 7, 2026. This plat was prepared at the request of the Department of Energy, Los Alamos National Laboratory.

Indian Meridian, Oklahoma

The supplemental plat of sections 25, 26, and 27, Township 10 North, Range 26 East, under Group No. 247, Oklahoma, accepted March 9, 2026. This plat was prepared at the request of the Bureau of Indian Affairs, Eastern Oklahoma Region.

The dependent resurvey and survey within Township 6 North, Range 1 West, under Group No. 251, Oklahoma, accepted June 15, 2026. This plat was prepared at the request of the BLM New Mexico State Office, Division of Minerals.

A person or party who wishes to protest an official filing of plat(s)

identified above must file a written notice of protest with the BLM State Director for New Mexico, at the address listed in the **ADDRESSES** section of this notice.

The notice of protest must identify the specific plat(s) that the person or party wishes to protest. The notice of protest must be received in the BLM New Mexico State Office no later than the scheduled date of the proposed official filing of plat(s) being protested, see the **DATES** section above; if received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered.

A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM State Director for New Mexico within 30 days after the notice of protest is received.

If a notice of protest of the official filing of plat(s) is received prior to the scheduled date of official filing, the official filing of the plat(s) identified in the notice of protest will be stayed pending consideration of the protest. Plat(s) will not be officially filed until the next business day after all timely protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3)

Jacob B. Barowsky,
Chief Cadastral Surveyor for New Mexico and Oklahoma.

[FR Doc. 2026-17018 Filed 8-19-26; 8:45 am]

BILLING CODE 4331-23-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407-014-004-065516, #O2509-014-004-125222; LLHQ320000L13200000]

Agency Information Collection Activities; Coal Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Land Management (BLM) proposes extending an expiring information collection.

DATES: Interested persons are invited to submit comments on or before October 19, 2026.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240, Attention: Attention PRA Office; or by email to BLM_HQ_PRA_Comments@blm.gov. Please reference Office of Management and Budget (OMB) Control Number 1004-0073 in the subject line of your comments. The electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request (ICR), contact Tom Huebner by email at thuebner@blm.gov, or by telephone at (307) 775-6195. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency could minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment, including your PII, may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: This collection enables the BLM to learn the extent and qualities of Federal coal resources; evaluate the environmental impacts of coal leasing and development; determine the qualifications of prospective lessees to acquire and hold Federal coal leases; and ensure lessee compliance with applicable statutes, regulations, and lease terms and conditions. OMB Control Number 1004-0073 is currently scheduled to expire on February 28, 2027. The BLM plans to request that OMB extend this OMB control number for an additional three (3) years.

Title of Collection: Coal Management (43 CFR part 3400).

OMB Control Number: 1004-0073.

Form Numbers: 3440-001—Application and License to Mine Coal (Free Use) and Form 3400-012—Coal Lease.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for, and holders of, coal exploration licenses; applicants/bidders for, and holders of, coal leases; applicants for, and holders of, licenses to mine coal; and surface owners and State and tribal governments whose lands overlie coal deposits.

Total Estimated Number of Annual Respondents: 1,017.

Total Estimated Number of Annual Responses: 1,017.

Estimated Completion Time per Response: Varies from 1 to 800 hours.

Total Estimated Number of Annual Burden Hours: 19,897.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: \$943,463

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2026-16992 Filed 8-19-26; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NRNL-DTS#-43546;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 8, 2026, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by September 4, 2026.

ADDRESSES: Comments are encouraged to be submitted electronically to National_Register_Submissions@nps.gov with the subject line "Public Comment on <property or proposed district name, (County) State>." If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 2013, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 2013, Washington, DC 20240, sherry_frear@nps.gov, 202-913-3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 8,

2026. Pursuant to 36 CFR 60.13, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ARKANSAS

Clark County

Henderson State University Historic District (Boundary Increase), 817 University Street and 586 North 10th Street, Arkadelphia, BC100013412

Garland County

Hobson Avenue Historic District, Roughly either side of Hobson Avenue from 7th Street to 5th Street, Hot Springs, SG100013421

Pope County

Arkansas Tech University Historic District, Roughly bounded by West Q Street on the north. North El Paso and North Arkansas avenues on the east. West M Street on the south. and North Glenwood Avenue on the west, Russellville, SG100013413

Pulaski County

Vallea, Mabel, Lustron House, 706 Skyline Drive, North Little Rock, SG100013411

Washington County

Marinoni Ensemble Homes, 355 North College Avenue, Fayetteville, SG100013420

COLORADO

Denver County

Cathedral High School and Convent, 1840 Grant Street—330 E. 19th Avenue, Denver, SG100013407

FLORIDA

Columbia County

Fort White Depot, (Florida's Historic Railroad Resources MPS), 108 Southwest Walker's Way, Fort White, MP100013395

ILLINOIS

Cook County

James H. Bowen High School, 2710 E 89th Street, Chicago, SG100013403
5401-5415 W Washington Boulevard—56-58 N Long Avenue, (Chicago Courtyard

Apartment Buildings), 5401-5415 W Washington Boulevard—56-58 N Long Avenue, Chicago, MP100013405
Washington Manor Apartments, (Chicago Courtyard Apartment Buildings), 5113-5123 W Washington Boulevard, Chicago, MP100013406

MARYLAND

Baltimore INDEPENDENT CITY

Crown Cork and Seal Highlandtown Plant, 4401 Eastern Avenue, Baltimore, SG100013419

MICHIGAN

Wayne County

Plymouth High School and Central Grade School, 650 Church Street, Plymouth, SG100013409

MINNESOTA

St. Louis County

Site 21SL1107, Address Restricted, Tower vicinity, SG100013415

NEW JERSEY

Morris County

Orchard Street Cemetery Gatehouse, Intersection of Orchard Street and Chester Street, Dover Town, SG100013410

Passaic County

Little Falls Municipal Building, 35 Stevens Avenue, Little Falls Township, SG100013417

NEW YORK

Monroe County

Cobb's Hill Historic District, Aberthaw Rd, Beckwith Ten-ace, Bengal Terrace, Castlebar Rd, Cathaway Park, Chadbourne Rd, Cobb's Hill Dr, Culver Rd, Hartsen St, Highland Ave, Highland Heights Dr, Hillside Av, Hoyt Pl, Morven Rd, Norris Dr, Nursery St Nunda Blvd., Pinnard St, San Gabriel, Rochester, SG100013398

New York County

Woodrow Wilson Houses, (Public Housing in New York City, 1934 to 1973 MPS), 405, 425, and 435 East 105th Street, New York, MP100013400

NORTH CAROLINA

Catawba County

Ridgeview Hosiery Mills, (Catawba County MPS), 2101 North Main Avenue, Newton, MP100013389
Prestige Chair Corporation-Knitmode Mills, 20 East 19th Street, Newton, SG100013396

Cumberland County

Broadell Historic District, Roughly bound by Seabrook Road. Gola Drive. Bessemer Circle. Corrinna Street Cascade Street. and Marion Court, Fayetteville, SG100013397

Edgecombe County

Edgecombe County Home Historic District, 3003 North Main Street, Tarboro, SG100013391

Franklin County

Oak Grove, 4026 US 401 HWY N, Louisburg, SG100013392

Lee County

Harrington's School, (Lee County MPS), 6383
Carbonton Road, Sanford vicinity,
MP100013401

Madison County

Gulf Oil Distribution Facility, 481 Rollins
Road, Marshall, SG100013394

Person County

Somerset Mill Historic District, 140 Somerset
Church Road and 1885–1999 Durham
Road, Roxboro, SG100013393

OHIO**Cuyahoga County**

Forest Hills Park Apartments, (Apartment
Buildings in Ohio Urban Centers, 1870–
1970 MPS), 13995–14015 Superior Road,
East Cleveland, MP100013388

Lucas County

Toledo Broadway Corridor Historic District,
Broadway Street between Garland,
Langdon, and Colburn streets, Toledo,
SG100013416

PENNSYLVANIA**Montgomery County**

Acorn Glove Company, 802–806 Gravel Pike,
Palm, SG100013387

SOUTH CAROLINA**Charleston County**

Scanlonville Cemetery, 0.2 mi. NE of jct. of
3rd and 4th Ave., Mount Pleasant,
02000570

TEXAS**Harris County**

Style in Steel Townhouses, 4156, 4158, and
4160 Meyerwood Drive, Houston,
SG100013418

WISCONSIN**La Crosse County**

Congregation Sons of Abraham, 1820 Main
Street, La Crosse, SG100013402

Additional documentation has been
received for the following resource(s):

NORTH CAROLINA**Moore County**

Alston House (Additional Documentation),
288 Alston House Road, Glendon vicinity,
AD70000462

Authority: 36 CFR 60.13.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2026–16972 Filed 8–19–26; 8:45 am]

BILLING CODE 4312–52–P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 337–TA–1429]

**Certain Wireless Communications
Devices and Components Thereof;
Notice of Request for Submissions on
the Public Interest**

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on August 14, 2026, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: B. Rashmi Borah, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2518. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief

should the Commission find a violation, specifically: a limited exclusion order directed to certain wireless communications devices and components thereof imported, sold for importation, and/or sold after importation by respondents Dell Technologies Inc., Dell Products L.P. (collectively, “Dell”), and Lenovo (United States) Inc. (“Lenovo”); and cease and desist orders directed to Lenovo and Dell. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on August 14, 2026. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant’s licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on September 15, 2026.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the

investigation number (“Inv. No. 337–TA–1429”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 18, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–17046 Filed 8–19–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Devices with Certain Audio Technologies, DN 3931*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant’s filing pursuant to the Commission’s Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission’s Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission’s Rules of Practice and Procedure filed on behalf of BoomCloud 360 Inc. on August 14, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices with certain audio technologies. The complaint names as a respondent: Apple, Inc. of Cupertino, CA; Samsung Electronics America Co., LTD. of South Korea; Samsung Electronics America, Inc. of Ridgely Park, NJ; and Google LLC of Mountain View, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon

respondents’ alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant’s licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission’s Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice

are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3931") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings unless an exemption is granted. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 18, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–17011 Filed 8–19–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number: 1122–0034]

Agency Information Collection Activities; Proposed eCollection eComments Requested Extension of a Previously Approved Collection Title—STOP Match Calculation Worksheet

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-day Notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 19, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tiffany Watson, Office on Violence Against Women, at 202–307–6026 or Tiffany.Watson@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office on Violence Against Women, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: The STOP Violence Against Women Formula Grant Program was authorized through the Violence Against Women Act of 1994 (VAWA), amended and reauthorized in 2000, 2005, 2013 and 2022. The STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program provides funding to states and territories for use by state, local, and Indian Tribal governments, courts, and victim service providers. This program enhances the capacity of local communities to develop and strengthen effective law enforcement and prosecution strategies to combat domestic violence, dating violence, sexual assault and stalking and to develop and strengthen comprehensive, holistic victim services. The grant funds must be distributed by STOP state administrators to subgrantees according to a statutory formula.

Each state and territory must allocate 25 percent for law enforcement, 25 percent for prosecutors, 30 percent for victim services (of which at least 10 percent must be distributed to culturally specific community-based organizations), 5 percent to state and local courts, and 15 percent for discretionary distribution. VAWA provides for a 25 percent match requirement imposed on grant funds under the STOP Violence Against Women Formula Grant Program. Thus, a grant made under this program may not cover more than 75 percent of the total costs of the project being funded. The state is exempted from matching the portion of the state award that goes to a victim service provider for victim services or that goes to a tribe. Territories are also exempted in full. States can apply to have the match requirement waived by submitting a petition to OVW and a demonstrating financial need. At the time of closeout, OVW will look at the entities and purposes of funds and determine the required match amount.

The purpose of this information collection is to provide a worksheet for documenting the amount of matching funds required at the closeout of a specific fiscal year award under the STOP Violence Against Women Formula Grant Program. The type of questions on the worksheet will include award number, award amount and amount of funds sub-awarded to victim

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

service providers for victim services or to tribes.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a previously approved collection.
2. *The Title of the Form/Collection:* STOP Match Calculation Worksheet.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–0034. U.S. Department of Justice, Office on Violence Against Women.
4. *Affected public who will be asked or required to respond, as well as the*

obligation to respond: The affected public includes the 51 STOP state administrators. The obligation to respond is required under the Violence Against Women Act, 34 U.S.C. 10441.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take 51 respondents approximately ten minutes to complete the STOP Match Calculation Worksheet.

6. *An estimate of the total annual burden (in hours) associated with the collection:*

The total annual hour burden to complete the data collection forms is 8.5 hours, that is 51 STOP State Administrators completing an assessment tool once annually with an estimated completion time of ten minutes.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The annualized costs to the Federal Government resulting from the OVW staff review of the STOP Match Calculation Worksheets submitted by grantees are estimated to be \$497.68.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Worksheet	51	annually	51	10	8.5
Unduplicated Totals	51	.....	51	.....	8.5

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: August 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–17025 Filed 8–19–26; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number: 1122–0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested Extension of a Previously Approved Collection; Title—Annual Progress Report for the STOP Violence Against Women Formula Grant Program

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 19, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tiffany Watson, Office on Violence Against Women, at 202–307–6026 or Tiffany.Watson@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office on Violence Against Women, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: The STOP Violence Against Women Formula Grant Program was authorized through the Violence Against Women Act of 1994 (VAWA), amended and reauthorized in 2000, 2005, 2013 and 2022. The STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant Program provides funding to states and territories for use by state, local, and Indian Tribal governments, courts, and victim service providers. This program enhances the capacity of local communities to develop and strengthen effective law enforcement and prosecution strategies to combat domestic violence, dating violence, sexual assault and stalking and to develop and strengthen comprehensive, holistic victim services. The grant funds must be distributed by STOP state administrators to subgrantees according to a statutory formula.

This information collection is necessary for the Attorney General and STOP Violence Against Women Formula Grant Program grantees and subgrantees to comply with federal statutory reporting requirements. The information will be used for reports to Congress on the use of appropriated funds in support of the STOP Violence Against Women Formula Grant Program. There are two sets of

respondents—the STOP state administrators who allocate the STOP funds and the subgrantees who may include law enforcement agencies, prosecutors' offices, courts, and victim services organizations.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Annual Progress Report for the STOP Violence Against Women Formula Grant Program.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–0003. U.S. Department of Justice, Office on Violence Against Women.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* The affected public includes the 56 STOP state administrators (from 50 states, the District of Columbia and five territories and commonwealths (Guam, Puerto Rico, American Samoa, Virgin Islands, Northern Mariana Islands)) and their subgrantees. The obligation to respond is required under the Violence Against Women Act, 34 U.S.C. 10441.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the 56 respondents (STOP administrators) approximately one hour to complete an annual progress report. It is estimated that it will take approximately one hour for roughly 1,960 subgrantees¹ to complete the relevant portion of the annual progress

report. The Annual Progress Report for the STOP Violence Against Women Formula Grant Program is divided into sections that pertain to the different types of activities that subgrantees may engage in and the different types of subgrantees that receive funds, *i.e.*, law enforcement agencies, prosecutor offices, courts, victim services agencies, etc.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual hour burden to complete the annual progress report is 2,016 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The annualized costs to the Federal Government resulting from the OVW staff review of the progress reports submitted by grantees are estimated to be \$3,278.80.²

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Reporting Form	2,016	annually	2,016	1	2,016
Unduplicated Totals	2,016	.....	2,016	.....	2,016

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: August 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–17027 Filed 8–19–26; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0001]

Agency Information Collection Activities; Proposed Collection eComments Requested; Revision of a Previously Approved Collection; Application for Cancellation of Removal for Certain Permanent Residents (Form EOIR–42A); and Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents (Form EOIR–42B)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Executive Office for Immigration Review (EOIR), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 19, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Justine Fuga, Associate General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone: (703) 305–0265, email: eoir.pra.comments@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

¹ Each year the number of STOP subgrantees changes. The number 1,960 is based on the number

of reports received by state administrators from STOP subgrantees in 2024.

² This calculation does not include performance reports from subgrantees because those performance reports are sent to state administrators to review.

proposed collection of information, including the validity of the methodology and assumptions used;—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: An individual who is removable from the United States may, pursuant to section 240A of the Immigration and Nationality Act (Act) (8 U.S.C. 1229b(a)), request that the Attorney General cancel their removal. To be granted such relief from removal, the applicant must prove that they meet all of the statutory prerequisites for such relief and that they are entitled to a favorable exercise of discretion. There are two forms available to apply for cancellation of removal: Form EOIR–42A, Application for Cancellation of Removal for Certain Permanent Residents; and Form EOIR–42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents. This information collection is necessary to determine the statutory eligibility of individuals in removal proceedings who have been determined to be removable from the United States for cancellation

of their removal, as well as to provide information relevant to a favorable exercise of discretion by the adjudicating immigration judge.

EOIR is making some substantive changes to the forms to remove unnecessary collections of information. For both forms, Question 21 will be generalized to account for various visa types that may have been used by the applicant to enter the United States. Within Part 7 on both forms, EOIR is removing form fields collecting information about the applicant that is irrelevant to the immigration judge's exercise of discretion for each respective type of immigration relief. Additionally, EOIR is modifying Part 9 for both forms to collect the applicant's signature and affirmation at the time the form is filed.

EOIR is also making several non-substantive changes to the forms to: update electronic filing fee information; format text to improve organization, clarity, and readability; and revise the Advice to Applicants, Instructions, and corresponding form questions to mirror as closely as possible the text of the INA to accurately reiterate legal standards set forth by the Act.

Overview of This Information Collection

1. *Type of Information Collection:* Revision and extension of a previously approved collection.

2. *The Title of the Form/Collection:* Application for Cancellation of Removal for Certain Permanent Residents; and Application for Cancellation of Removal

and Adjustment of Status for Certain Nonpermanent Residents.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form numbers are EOIR–42A and EOIR–42B, and the sponsoring DOJ component is EOIR.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals in removal proceedings before EOIR determined to be removable from the United States. This information collection is necessary to determine the statutory eligibility of individuals in removal proceedings who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion pursuant to section 240A(a) of the INA (8 U.S.C. 1229b(a)).

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,457 respondents will complete the Form EOIR–42A annually with an average of 5 hours and 50 minutes per response. It is estimated that 13,787 respondents will complete the Form EOIR–42B annually with an average of 5 hours and 50 minutes per response.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The combined total annual burden hours for this collection is 88,873 hours.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (hours)	Total annual burden (hours)
EOIR–42A	1,457	1	1,457	5.83	8,492
EOIR–42B	13,787	1	13,787	5.83	80,380

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The following represents the

maximum total public cost burden for each form.

TOTAL PUBLIC COST

Activity	Filing fee (per response)	Printing (per response)	Mailing (per response)	Practitioner assistance	Total annual responses	Total annual public cost
EOIR–42A	\$710	\$0.70	\$5	\$84.84/hr × 5.83 hours per response = \$494.62 per response.	1,457	\$1,762,956
EOIR–42B	1,649	0.80	5	\$84.84/hr × 5.83 hours per response = \$494.62 per response.	13,787	29,509,956

Printing and postage costs associated with filing these forms may be avoided because all forms may be submitted

electronically. The cost for practitioner assistance is based on the average hourly wage for an attorney as estimated

by the Bureau of Labor Statistics. The estimated total public cost for each form is derived by adding the filing fee with

the estimated costs for hiring a practitioner to assist with completing the form, printing the form, and mailing the form, and then multiplying by the total number of annual responses.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: August 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-17010 Filed 8-19-26; 8:45 am]

BILLING CODE 4410-30-P

NATIONAL SCIENCE FOUNDATION

Information Collection; Improving Customer Experience (OMB Circular A-11, Section 280 Implementation)

AGENCY: National Science Foundation.

ACTION: Notice; request for comment.

SUMMARY: The National Science Foundation (NSF), as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on renewing an existing collection by the Agency.

DATES: Submit comments on or before: October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, Virginia 22314; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the PRA, (44 U.S.C. 3501-3520) Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

“Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, NSF is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A-11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.*, in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. NSF will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps

will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps and reports, and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on [performance.gov](https://www.performance.gov) to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection:

NSF will collect this information by electronic means when possible, as well as by mail, telephone, technical discussions, and in-person interviews. NSF also may utilize observational techniques to collect this information.

Data:

OMB Clearance Number: 3145-0254.

Form Number(s): None.

Type of Review: Renewal.

B. Annual Reporting Burden

Affected Public: Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, “customers” are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

Estimated Number of Respondents: 2,001,550.

Estimated Time per Response: Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 2 hours to participate in an interview.

Estimated Total Annual Burden Hours: 101,125.

Estimated Total Annual Cost to Public: \$0.

C. Public Comments

NSF invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 18, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026-16984 Filed 8-19-26; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 05-614; NRC-2025-0079]

Long Mott Energy, LLC; Long Mott Generating Station; Notice of Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Construction permit application; notice of uncontested hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice of an uncontested hearing on a construction permit application from Long Mott Energy, LLC (LME) for construction of the Long Mott Generating Station (LMGS), a four reactor facility to be built in Calhoun County, Texas.

DATES: The hearing is scheduled to begin at 5:30 p.m. central time (CT) on September 22, 2026, at the Bauer Community Center located at 2300 Hwy. 35 Bypass N, Port Lavaca, TX 77979. The hearing will be preceded by an open house beginning at 5 p.m. CT at the same location.

ADDRESSES: Please refer to Docket ID NRC-2025-0079 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0079. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Stephanie Devlin-Gill, telephone: 301-415-5301; email: Stephanie.Devlin-Gill@nrc.gov and Adrian Muñiz, telephone: 301-415-4093; email: Adrian.Muniz@nrc.gov. Both are staff of the Office of Advanced Reactors at the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

By letter dated March 31, 2025 (ADAMS Package Accession No. ML25090A057), LME (the applicant), submitted to the NRC a construction permit application for a reactor facility pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," and section 103, "Commercial Licenses," of the Atomic Energy Act of 1954, as amended (the Act). The facility, designated as LMGS, would be an 800 megawatts-thermal nuclear power plant comprising four X-Energy, LLC (X-energy) Xe-100 small modular high-temperature gas-cooled reactors and associated common facilities in Calhoun County, Texas.

Pursuant to Section 189a. of the Act, and the Commission Policy Statement on Mandatory Hearings for Reactor Licensing (published in the **Federal Register** at 91 FR 34661), notice is hereby given that the uncontested (*i.e.*, mandatory) hearing will be held on September 22, 2026, starting at 5:30 p.m. CT in the Bauer Community Center located at 2300 Hwy. 35 Bypass N, Port Lavaca, TX 77979. Members of the

public are invited to attend the hearing. There will be an opportunity for members of the public to ask questions and provide feedback on the application. This is not an opportunity to request a contested hearing, where petitioners can file intervention requests that contain the contentions they wish to litigate pursuant to 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." The opportunity to request a contested hearing and petition for leave to intervene was published in the **Federal Register** on June 10, 2025 (90 FR 24428). The NRC received a petition to intervene and request for hearing on August 11, 2025. Information related to the ongoing proceeding may be found on the Electronic Hearing Docket under Docket No. 50-614-CP.

An open house will be held before the hearing begins, from 5 to 5:30 p.m. CT, to give the public an opportunity to speak with the NRC staff. The hearing will then convene at 5:30 p.m. CT and begin with a presentation by the NRC staff that will explain the review process and provide a brief overview of the application, followed by a comment period of up to 3 hours. During the comment period, the public will be provided with an opportunity to speak on the record. Each member of the public will be allowed to speak for no more than 5 minutes at a time to ensure that all stakeholders who wish to provide oral comments or ask questions will have the opportunity to do so. The applicant has been made aware of the hearing and was invited to provide a presentation of no more than 30 minutes following the NRC staff presentation.

The hearing record for comments will remain open until October 6, 2026. Written comments and questions must be submitted to the following email address: LMGS-CPHearing@nrc.gov. In order to be included in the hearing record, written comments and questions must be received by October 6, 2026. The NRC staff will not consider comments or questions received by other means or after the deadline of October 6, 2026. The NRC staff will treat any comments or questions received consistent with the Commission Policy Statement on Mandatory Hearings for Reactor Licensing.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 18, 2026.

For the Nuclear Regulatory Commission.

Mehdi Reisi Fard,

Director, Division of Advanced Reactor Engineering, Office of Advanced Reactors.

[FR Doc. 2026-16975 Filed 8-19-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–3301]

**Draft Regulatory Guide:
Comprehensive Risk Metrics and
Associated Risk Performance
Objectives for Commercial Nuclear
Plants****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Regulatory Guide (DG), 1443, proposed Regulatory Guide (RG) 1.263, Revision 0, “Comprehensive Risk Metrics and Associated Risk Performance Objectives for Commercial Nuclear Plants.” This DG describes approaches that are acceptable to the staff of the NRC for developing comprehensive risk metrics (CRMs) and associated risk performance objectives (RPOs).

DATES: Submit comments by September 21, 2026. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–3301. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Guidance and Publications Branch.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Martin Stutzke, Office of Nuclear Reactor Regulation, telephone: 301–415–0743; email: Martin.Stutzke@nrc.gov and Stanley Gardocki, Office of Nuclear Materials Safety and Safeguards, telephone: 301–415–1067;

email: Stanley.Gardocki@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC–2026–3301 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–3301.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. DG–1443, proposed RG 1.263, Revision 0, “Comprehensive Risk Metrics and Associated Risk Performance Objectives for Commercial Nuclear Plants,” is available in ADAMS under Accession No. ML26100A075.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–3301 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for

submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled “Comprehensive Risk Metrics and Associated Risk Performance Objectives for Commercial Nuclear Plants,” is temporarily identified by its task number, DG–1443.

This DG provides the NRC staff’s guidance on developing CRMs and RPOs to support a technology-inclusive, risk-informed, and performance-based approach to the design and operation of commercial nuclear plants under part 53 of title 10 of the *Code of Federal Regulations* (10 CFR), “Risk-Informed, Technology-Inclusive Regulatory Framework for Commercial Nuclear Plants.”

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML26091A250). The staff developed a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–1443, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in MD 8.4, because, as explained in this DG, licensees would not be required to comply with the positions set forth in this DG.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the "Regulatory Guide" series.

V. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that this DG is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 18, 2026.

For the Nuclear Regulatory Commission.

Nicholee Valentine,

Chief, Guidance and Publication Branch, Division of Guidance, Rulemaking, Economic Analysis, and Technical Editing, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026-17030 Filed 8-19-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 30-39013, 30-38619, 50-305, 50-320, 72-64, 72-80, 11005620 and 11005897; NRC-2026-2707]

EnergySolutions, LLC and Bridgepoint Group, PLC; Approval of Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an order approving the indirect transfer of control of Radioactive Materials License No. 39-35044-01, License Nos. DPR-43, DPR-73, and Independent Spent Fuel Storage Installation general license No. 40, as well as Export Licenses XW010 and XW018 from EnergySolutions, LLC to ECP VI, LLC and its ultimate parent, Bridgepoint Group, PLC. The indirect transfer reflects an upstream change in ownership of the holding company of Energy Solutions.

DATES: The order was issued on August 12, 2026, and was effective upon issuance.

ADDRESSES: Please refer to Docket ID NRC-2026-2707 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available

information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-2707. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The application for the indirect transfer order is available in ADAMS under Accession Nos. ML26117A088 and ML26210A266. The order approving the indirect transfer of licenses is available in ADAMS under Accession No. ML26210A367.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6877, email: William.Allen@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: August 17, 2026.

For the Nuclear Regulatory Commission.

Candace Spore,

Acting Director, Division of Decommissioning, Closure, Analysis, and Financial Oversight, Office of Nuclear Material Safety and Safeguards.

Attachment—Order Approving the Direct Transfer of License

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of Energy Solutions, LLC, Kewaunee Power Station 305, Three Mile Island, Unit 2, EAF-NMSS-2026-0068; Docket Nos.: 30-39013, 30-38619, 50-320, 72-64, 72-80, 11005620 and 11005897,

License Nos.: 39-35044-01, DPR-43, DPR-73, SFGL 40, XW010 and XW018

Order Approving Transfer of Licenses

I.

EnergySolutions, LLC (EnergySolutions) is the holder of Radioactive Materials License No. 39-35044-01. Kewaunee Solutions, Inc. is the holder of License No. DPR-43 and the associated Independent Spent Fuel Storage Installation (ISFSI) general license No. 40. TMI-2 Solutions, LLC is the holder of License No. DPR-73. EnergySolutions Services, Inc. is the holder of Export Licenses XW010 and XW018. Radioactive Materials License No. 39-35044-01 allows EnergySolutions to provide support for a variety of possible work scope activities. License No. DPR-43 and ISFSI general license No. 40 authorizes Kewaunee Solutions, Inc. to carry out decommissioning activities and to possess the spent nuclear fuel stored at Kewaunee Power Station (Kewaunee). License No. DPR-73 authorizes TMI-2 Solutions, LLC to carry out decommissioning activities at Three Mile Island Nuclear Station, Unit 2 (TMI-2), including activities associated with a general licensed ISFSI currently under construction. Export License XW010 authorizes EnergySolutions Services, Inc. to return radioactive materials to Canada, and Export License XW018 authorizes EnergySolutions Services, Inc. to return radioactive materials to Germany.

II.

By application dated April 24, 2026 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML26117A088), as supplemented on July 29, 2026 (ADAMS Accession No. ML26210A266), EnergySolutions requested on behalf of itself, its wholly owned subsidiaries as well as ECP VI, LLC ("ECP") and its ultimate parent, Bridgepoint Group, PLC ("Bridgepoint") (collectively, the Applicants) that the U.S. Nuclear Regulatory Commission (NRC) consent to the indirect transfer of control of Radioactive Materials License No. 39-35044-01, License No. DPR-43, ISFSI general license No. 40 and, License No. DPR-73 as well as Export Licenses XW010 and XW018 (collectively, the licenses). Specifically, the Applicants requested that the NRC consent to the indirect transfer of control of the Radioactive materials license, NRC reactor licenses, ISFSI general license and export licenses held by EnergySolutions, LLC; Kewaunee Solutions, Inc.; TMI-2 Solutions, LLC; and EnergySolutions Services, Inc (collectively, the Licensees).

This license transfer application was submitted to the NRC for approval under Section 184, "Inalienability of Licenses," of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34, "Terms and conditions of licenses" 50.80, "Transfer of licenses", 72.50, "Transfer of licenses," and 10 CFR 110.50, "Terms." Notice of the receipt of the license transfer application and opportunity to comment, request a hearing, and petition for leave to intervene was published in the **Federal Register** on June 6, 2026 (91 FR 36169). The supplemental letter,

listed above, contained clarifying information and did not expand the license transfer application beyond the scope of the original notice.

By implementing this indirect license transfer, the Applicants seek to maintain private equity investment in EnergySolutions' decommissioning, waste management and nuclear services business by investment managers with considerable experience in this sector as well as to help grow EnergySolutions' business through the investment experience of Bridgepoint Group, PLC. This indirect transfer of control will have no material impact on the Licensees and the activities conducted under the Licenses. The Licensees will maintain responsibility for all licensed activities at the facilities, including the responsibility to complete decommissioning and carry out spent nuclear fuel management in accordance with NRC regulations. This indirect transfer of control will not affect the organizations or operations of the Licensees, nor will it have any material impact on their existing technical and financial qualifications as discussed below.

The NRC received two public comments on the license transfer application. The staff reviewed the comments and determined that neither of them contained information that was within the scope of this action. They are referenced in the NRC staff's safety evaluation of the license transfer application.

Under 10 CFR 30.34, no license issued or granted pursuant to the regulations in this part, nor any right under a license shall be transferred, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing. Under 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Under 10 CFR 72.50, no license or any part included in a license for an ISFSI shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Under 10 CFR 110.50, a specific license may be transferred, disposed of or assigned to another person only with the approval of the Commission.

Upon review of the information in the application, as supplemented, and other information before the NRC, and relying on the representations contained in the application, the NRC staff has determined that Bridgepoint Group, PLC is qualified to indirectly hold the NRC licenses, to the extent described in the application, and that the indirect transfers of the licenses are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. The NRC staff has also determined that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) there is reasonable assurance that such activities will be conducted in

compliance with the Commission's regulations, and (3) the transfers will not be inimical to the common defense and security or to the health and safety of the public. The findings set forth above are supported by an NRC staff safety evaluation dated the same date as this order, which is available at ADAMS Accession No. ML26210A366.

III.

Accordingly, under Sections 161b, 161i, 161o, and 184 of the AEA; 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 30.34, 10 CFR 50.80, 10 CFR 72.50 and 10 CFR 110.50, *it is hereby ordered* that the application for the indirect transfer of the licenses from EnergySolutions to Bridgepoint Group, PLC, as described herein, is approved.

It is further ordered that the Applicants shall, at least 2 business days before the planned closing of the indirect license transfer transaction, inform the Director of NMSS in writing of the planned closing date. Should the proposed transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order. The condition of this Order may be amended upon application by the Applicants and approval by the NRC.

This Order is effective upon issuance.

For further details with respect to this Order, see the license transfer application dated April 24, 2026, and the associated NRC staff safety evaluation dated August 12, 2026, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents are accessible electronically through ADAMS in the NRC Library at <https://www.nrc.gov/reading-rm/adams.html>. Persons who encounter problems with ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by email to PDR.Resource@nrc.gov.

Dated: August 12, 2026.

For the Nuclear Regulatory Commission
/RA/

Jane Marshall,
Director, Division of Decommissioning,
Closure, Analysis, and Financial Oversight
Office of Nuclear Material Safety and
Safeguards

[FR Doc. 2026-16929 Filed 8-19-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0052]

Regulatory Guide: Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Trial guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for trial use, Revision 1 to Trial Regulatory Guide (RG) 1.247, "Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities." This guidance describes one acceptable approach for determining whether the acceptability of the probabilistic risk assessment (PRA) used to support a PRA application is sufficient to provide confidence in the results for non-light water reactors (NLWRs) and risk-informed activities. Trial RG 1.247 was originally issued in March 2022 with a 2-year trial period that ended in May 2024. The staff is issuing Revision 1 to RG 1.247 (with minimal changes) as a trial RG so that it can continue to be used by potential applicants while the staff addresses the remaining technical issues that are best resolved by continuing to test the guide against actual applications. As a trial RG, this issuance does not provide final staff positions and the guidance within may be revised based on experience obtained by the NRC with its use after its publication.

DATES: Submit comments by October 19, 2026. Comments received during this public comment period will be considered and responded to. The public comment period will be followed by a 3-year trial use period. At any time during the trial use period, a member of the public may submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the "Regulatory Guide" series. This trial use period may be extended, as necessary, based on the experience obtained. After the trial use period, the NRC staff will develop and issue a draft RG that will include the stakeholder feedback and experience gained from use of the trial RG. The draft RG issuance will also provide an additional formal public comment opportunity, with feedback considered prior to final RG publication.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0052. Address

questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN-5-A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Guidance and Publications Branch.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Donna Williams, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1322; email: Donna.Williams@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0052 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action, by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0052.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0052 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <https://www.regulations.gov> as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for trial use Revision 1 to Trial RG 1.247 in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This trial RG titled, “Acceptability of Probabilistic Risk Assessment Results for Non-Light Water Reactor Risk-Informed Activities,” is designated as Revision 1 to trial use RG 1.247 and is available in ADAMS under Accession No. ML26132A266.

It describes one acceptable approach for determining whether the acceptability of the PRA used to support an application is sufficient to provide confidence in the results, such that the PRA can be used in regulatory decision-making for NLWRs for implementing the requirements in part 50, and 52 of title 10 of the *Code of Federal Regulations* (10 CFR), or future applicable regulations. In addition, Trial RG 1.247 Revision 1 is intended to be consistent with the NRC’s PRA Policy Statement and reflects, and endorses, with staff exceptions and clarifications,

national consensus PRA standards provided by standards development organizations and guidance provided by nuclear industry organizations.

On March 24, 2022, the NRC issued Trial RG 1.247 with a 2-year trial period that ended in May 2024 (87 FR 16770). Revision 1 to Trial RG 1.247 is being issued as a trial RG with minimal changes so that it can continue to be used by potential applicants while the staff addresses the remaining technical issues that are best resolved by continuing to test the guide against actual applications. The staff has determined that additional implementation experience would better inform draft and final staff positions. Such revisions would involve the development of a draft RG that would include lessons learned and public comments from use of this trial RG. The draft RG would also be available for public comment prior to issuance of a final RG. Therefore, the staff positions included in this trial RG could be different than the ones that would be included in the draft and final RG.

The staff previously issued a regulatory analysis (ADAMS Accession No. ML21235A010) with the original issuance of Trial RG 1.247 that remains applicable to the issuance of Revision 1. The staff develops a regulatory analysis to assess the value of issuing this new regulatory guide as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

This trial RG does not establish a staff position for purposes of 10 CFR 50.109, “Backfitting” or constitute forward fitting as that term is defined and described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests” (ADAMS Accession No. ML18093B087). Any changes to this trial RG, such as withdrawal or addition of or modification to staff positions based on experience gained during the trial use period, prior to issuing a final RG will not be considered to be backfitting as defined in 10 CFR 50.109. This will ensure that the lessons learned from the regulatory trial use of the pilot applications of this RG are adequately addressed and that this guidance is sufficient to enhance regulatory stability in the review and approval of risk-informed applications for non-light water reactors.

IV. Congressional Review Act

This trial RG is a rule as defined in the Congressional Review Act (5 U.S.C.

801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

V. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the "Regulatory Guide" series.

VI. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that this trial RG is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 18, 2026.

For the Nuclear Regulatory Commission.

Nicholee Valentine,

*Chief, Guidance and Publications Branch,
Division of Guidance, Rulemaking, Economic
Analysis and Technical Editing, Office of
Nuclear Material Safety and Safeguards.*

[FR Doc. 2026–17013 Filed 8–19–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0156, Application for Death Benefits Under the Civil Service Retirement System, (SF 2800); Documentation in Support of Application for Death Benefits When Deceased was an Employee at the Time of Death, (SF 2800A) and Applying for Death Benefits Under CSRS Pamphlet, (SF 2800–1)

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Application for Death Benefits/Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death (CSRS).

DATES: Comments are encouraged and will be accepted until October 19, 2026.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal at

<http://www.regulations.gov>. Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AS, Washington, DC 20415, Attention: Cyrus S. Benson, or via electronic mail at RSPublicationsTeam@opm.gov.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13) as amended (44 U.S.C. chapter 35), OPM is soliciting comments for this collection (OMB No. 3206–0156). The Office of Personnel Management is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Standard Form (SF) 2800 is needed to collect information so that OPM can pay death benefits to the survivors of Federal employees and annuitants in the Civil Service Retirement System (CSRS). SF 2800A allows OPM to collect the information needed for deaths in service, including information so that survivors can make the needed elections regarding military service. OPM is considering whether the SF 2800 and SF 2800A forms should be common forms since they are used by agencies across government.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Death Benefits under the Civil Service Retirement

System (SF 2800); and Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death (SF 2800A).

OMB Number: 3206–0156.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: SF 2800 = 59,750; SF 2800A = 250.

Estimated Time per Respondent: SF 2800 = 45 minutes; SF 2800A = 45 minutes.

Total Burden Hours: 27,113 (SF 2800 = 27,000; SF 2800A = 113).

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–16941 Filed 8–19–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0275, Application for Court-Ordered Benefits for Former Spouses, Standard Form 3119

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services offers the general public and other federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Application for Court-Ordered Benefits for Former Spouses, Standard Form 3119.

DATES: Comments are encouraged and will be accepted until October 19, 2026.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AS, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to RSPublicationsTeam@opm.gov.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C.

chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0275). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Standard Form 3119 is used to collect the necessary information on the inaugural attempt, which eliminates the need to re-contact the customer to gather additional required information, ensure that OPM can process the apportionment correctly, and eliminate any delay in payment to the customers.

Analysis

Agency: Office of Personnel Management, Retirement Services.

Title: Application for Court-Ordered Benefits for Former Spouses.

OMB Number: 3206–0275.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,500.

Estimated Time per Respondent: 60 minutes.

Total Burden Hours: 2,500.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–16940 Filed 8–19–26; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–348 and K2026–342]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning

a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 25, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established.

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).*: MC2026–348 and K2026–342; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 1070 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 17, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* August 25, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–17014 Filed 8–19–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36301; File No. 812-16056]

Clearlake Private Markets Fund and Clearlake Capital RIC Management, LLC

August 17, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

APPLICANTS: Clearlake Private Markets Fund and Clearlake Capital RIC Management, LLC

FILING DATES: The application was filed on July 16, 2026, and amended on August 13, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on September 11, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Fred Ebrahemi and John Cannon, Clearlake Capital RIC Management, LLC, 233 Wilshire Boulevard, Suite 800, Santa Monica, CA 90401, with copies to Rajib Chanda, Esq., *Rajib.Chanda@stblaw.com*; Nathan Briggs, Esq., *Nathan.Briggs@stblaw.com*; Jonathan Gaines, Esq., *Jonathan.Gaines@stblaw.com*; and Stephen Forster, Esq., *Stephen.Forster@stblaw.com*, Simpson Thacher & Bartlett LLP.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ amended application, dated August 13, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Assistance at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-16935 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106143; File No. SR-Phlx-2026-53]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange’s Connectivity Schedule and Discontinue a Previously Proposed Offering

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 14, 2026, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been

prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering that was previously proposed but not implemented.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**1. Purpose**

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering³ that was previously proposed but not implemented.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating

³ See Securities Exchange Act Release No. 100482 (July 9, 2024), 89 FR 57442 (July 15, 2024) (SR-Phlx-2024-28).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than the Exchange, and the Exchange has provided existing customers with 90-days' notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange's rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data feeds delivered to the Nasdaq Data Center via a wireless network, including microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions.⁵ The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days' notice of their termination prior to the offerings' effective termination date.

Finally, the Exchange proposes to discontinue the POD offering described in SR-Phlx-2024-28. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of

virtual or dedicated servers in the colocation space. The Exchange stated in SR-Phlx-2024-28 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR-Phlx-2024-28. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and not proceed with implementation of POD as described in SR-Phlx-2024-28.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the availability of any currently offered Exchange service. The proposal also would thus update the Exchange's rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange's rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange's rulebook. The Exchange has provided existing customers with 90-days' notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than the Exchange. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025.

Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR-Phlx-2024-28 will make clear that the Exchange does not offer, and will not proceed with implementing, those services.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90-days' notice to existing customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those wireless connectivity services, which terminated effective August 31, 2025. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange's rulebook by ensuring that the offerings reflected in the rulebook are currently available or otherwise accurately described.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90-days' notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will

⁴ See proposed Rule General 8, Section 1(b).

⁵ See Proposed Rule General 8, Section 1(b).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90-days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. And the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current availability of its services and removes obsolete provisions that no longer reflect operative offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2026-53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-Phlx-2026-53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2026-53 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-16946 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106148; File No. SR-CboeEDGX-2026-052]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Certain Free Trials

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2026, Cboe EDGX Exchange, Inc. ("EDGX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") proposes to amend the free trial provisions for its End-of-Day ("EOD") Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data to replace the current participant-selected six-month historical data window with a fixed, uniform time range of July 1, 2022 through December 31, 2022 for all three products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/edgx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to modify the free trial provisions applicable to its Open-Close Data products. Specifically, the Exchange proposes to replace the current free trial language—which permits each requesting participant to select any six-month window of historical data—with a fixed, uniform historical time range of July 1, 2022 through December 31, 2022, applicable to all three Open-Close Data products: End-of-Day (“EOD”) Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data.

By way of background, the Exchange currently offers End-of-Day (“EOD”) and Intraday Open-Close Data (collectively, “Open-Close Data”). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every ten minutes (Ten-Minute Interval Intraday Open-Close Data) or one minute (One-Minute Interval Intraday Open-Close Data) during the trading day. Data is captured in “snapshots” taken every either every ten minutes or one minute (depending on the applicable report) throughout the trading day and is available to subscribers within five minutes of the conclusion of each applicable interval.³

All Open-Close Data products are completely voluntary products, in that

the Exchange is not required by any rule or regulation to make this data available and potential customers may purchase it (or receive a sample) only if they voluntarily choose to do so. The Exchange currently offers a free trial of the Open-Close Data products under which a requesting participant may select any six-months of historical data to sample before subscribing.⁴ The purpose of the free trial is to provide prospective subscribers with a sample of the data they would receive upon subscribing, thereby allowing them to evaluate the content, structure, and value of the Exchange’s Open-Close Data products before committing to a paid subscription.

The Exchange now proposes to replace the current variable, participant-selected six-month trial window with a single fixed and uniform historical time range—July 1, 2022 through December 31, 2022—for all three Open-Close Data products (EOD, Ten-Minute Interval Intraday, and One-Minute Interval Intraday Open-Close Data). Under the proposed change, all requesting participants would receive the identical six-month dataset covering July through December 2022, rather than selecting their six-month period.

The Exchange believes that providing a uniform, fixed six-month historical time range still fulfills the overarching purpose of the free trial—namely, to give prospective subscribers a representative sample of the data they would receive upon subscribing. The July through December 2022 period provides an adequate basis for prospective subscribers to evaluate the content, structure, and analytical value of each Open-Close Data product.

Moreover, a fixed time range is easier for the Exchange to administer and ensures that every requesting participant receives the identical trial dataset. This uniformity promotes consistency and supports non-discriminatory access, as all prospective subscribers receive the same data on the same terms. The Exchange notes that the duration for which the sample data offered remains unchanged (*i.e.*, a period of six months); only the mechanism for selecting which six-month period is being standardized.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange

and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed modification to the free trial provisions is consistent with the principles of Regulation NMS as it promotes the continued broadening of the availability of U.S. options market data to investors and promotes increased transparency through the continued dissemination of Open-Close Data.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the fixed July 1, 2022 through December 31, 2022 time range applies uniformly to all requesting participants. Every prospective subscriber receives access to the identical sample dataset on the same terms, without differentiation among market participants. The Exchange further notes that the free sample (and the Open-Close Data products available for purchase) remain entirely voluntary; no participant is required to request the sample or purchase the data, and the Exchange is not required by any rule or regulation to offer the Open-Close Data.

The Exchange also believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market by

³ For example, subscribers to the Ten-Minute Interval Intraday Open-Close Data receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth.

⁴ See Securities Exchange Act Release No. 104364 (December 11, 2025), 90 FR 58349 (December 16, 2025) (SR-CboeEDGX-2025-082).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

simplifying and standardizing the administration of the free trial, thereby promoting efficient access to market data on uniform terms for all interested participants.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed modification to the free trial provisions provides for an equitable allocation because the fixed July 1, 2022 through December 31, 2022 trial time range is made available on identical terms to every requesting participant, without differentiation based on the type or size of the market participant. The free trial itself imposes no charge on requesting participants. Moreover, the proposed change does not alter the fees assessed for the underlying Open-Close Data products; it modifies only the mechanism by which the sample data is administered. Accordingly, the Exchange believes the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among all persons who may seek to sample the Exchange's Open-Close Data products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is an administrative modification to the terms of a voluntary free trial of the Exchange's Open-Close Data products. The fixed time range of July 1, 2022 through December 31, 2022 applies uniformly to any requesting participant and does not differentiate among market participants.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to offer their own comparable products and trials. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. The proposed free trial terms apply uniformly to any requesting participant, in that the Exchange does not differentiate between the different market participants that may request the free trial. All requesting participants receive the identical trial dataset on the same terms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and paragraph (f) of Rule 19b-4¹⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-CboeEDGX-2026-052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should

submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2026-052 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-16950 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106149; File No. SR-C2-2026-020]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Certain Free Trials

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2026, Cboe C2 Exchange, Inc. ("C2" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the "Exchange" or "C2") proposes to amend the free trial provisions for its End-of-Day ("EOD") Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data to replace the current participant-selected six-month historical data window with a fixed, uniform time range of July 1, 2022 through December 31, 2022 for all three products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/>

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

sro.shtml), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/ctwo/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to modify the free trial provisions applicable to its Open-Close Data products. Specifically, the Exchange proposes to replace the current free trial language—which permits each requesting participant to select any six-month window of historical data—with a fixed, uniform historical time range of July 1, 2022 through December 31, 2022, applicable to all three Open-Close Data products: End-of-Day (“EOD”) Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data.

By way of background, the Exchange currently offers End-of-Day (“EOD”) and Intraday Open-Close Data (collectively, “Open-Close Data”). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every ten minutes (Ten-Minute

Interval Intraday Open-Close Data) or one minute (One-Minute Interval Intraday Open-Close Data) during the trading day. Data is captured in “snapshots” taken every either every ten minutes or one minute (depending on the applicable report) throughout the trading day and is available to subscribers within five minutes of the conclusion of each applicable interval.³

All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and potential customers may purchase it (or receive a sample) only if they voluntarily choose to do so. The Exchange currently offers a free trial of the Open-Close Data products under which a requesting participant may select any six-months of historical data to sample before subscribing.⁴ The purpose of the free trial is to provide prospective subscribers with a sample of the data they would receive upon subscribing, thereby allowing them to evaluate the content, structure, and value of the Exchange's Open-Close Data products before committing to a paid subscription.

The Exchange now proposes to replace the current variable, participant-selected six-month trial window with a single fixed and uniform historical time range—July 1, 2022 through December 31, 2022—for all three Open-Close Data products (EOD, Ten-Minute Interval Intraday, and One-Minute Interval Intraday Open-Close Data). Under the proposed change, all requesting participants would receive the identical six-month dataset covering July through December 2022, rather than selecting their six-month period.

The Exchange believes that providing a uniform, fixed six-month historical time range still fulfills the overarching purpose of the free trial—namely, to give prospective subscribers a representative sample of the data they would receive upon subscribing. The July through December 2022 period provides an adequate basis for prospective subscribers to evaluate the content, structure, and analytical value of each Open-Close Data product.

Moreover, a fixed time range is easier for the Exchange to administer and ensures that every requesting

participant receives the identical trial dataset. This uniformity promotes consistency and supports non-discriminatory access, as all prospective subscribers receive the same data on the same terms. The Exchange notes that the duration for which the sample data offered remains unchanged (*i.e.*, a period of six months); only the mechanism for selecting which six-month period is being standardized.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed modification to the free trial provisions is consistent with the principles of Regulation NMS as it promotes the continued broadening of the availability of U.S. options market data to investors and promotes increased transparency through the continued dissemination of Open-Close Data.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the fixed July 1,

³ For example, subscribers to the Ten-Minute Interval Intraday Open-Close Data receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth.

⁴ See Securities Exchange Act Release No. 104366 (December 11, 2025), 90 FR 58356 (December 16, 2025) (SR-C2–2025–025).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

2022 through December 31, 2022 time range applies uniformly to all requesting participants. Every prospective subscriber receives access to the identical sample dataset on the same terms, without differentiation among market participants. The Exchange further notes that the free sample (and the Open-Close Data products available for purchase) remain entirely voluntary; no participant is required to request the sample or purchase the data, and the Exchange is not required by any rule or regulation to offer the Open-Close Data.

The Exchange also believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market by simplifying and standardizing the administration of the free trial, thereby promoting efficient access to market data on uniform terms for all interested participants.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed modification to the free trial provisions provides for an equitable allocation because the fixed July 1, 2022 through December 31, 2022 trial time range is made available on identical terms to every requesting participant, without differentiation based on the type or size of the market participant. The free trial itself imposes no charge on requesting participants. Moreover, the proposed change does not alter the fees assessed for the underlying Open-Close Data products; it modifies only the mechanism by which the sample data is administered. Accordingly, the Exchange believes the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among all persons who may seek to sample the Exchange's Open-Close Data products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is an administrative modification to the terms of a voluntary free trial of the Exchange's Open-Close Data products. The fixed time range of July 1, 2022 through December 31, 2022 applies uniformly to any requesting

participant and does not differentiate among market participants.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to offer their own comparable products and trials. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. The proposed free trial terms apply uniformly to any requesting participant, in that the Exchange does not differentiate between the different market participants that may request the free trial. All requesting participants receive the identical trial dataset on the same terms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and paragraph (f) of Rule 19b-4¹⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-C2-2026-020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-C2-2026-020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-C2-2026-020 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-16951 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106146; File No. SR-CBOE-2026-073]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Certain Free Trials

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 14, 2026, Cboe Exchange, Inc. ("Cboe Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend the free trial provisions for its End-of-Day ("EOD") Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data to replace the current participant-selected six-month historical data window with a fixed, uniform time range of July 1, 2022 through December 31, 2022 for all three products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/cone/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to modify the free trial provisions applicable to its Open-Close Data products.³ Specifically, the Exchange proposes to replace the current free trial language—which permits each requesting participant to select any six-month window of historical data—with a fixed, uniform historical time range of July 1, 2022 through December 31, 2022, applicable to all three Open-Close Data products: End-of-Day ("EOD") Open-Close Data, Ten-Minute Interval Intraday Open-

Close Data, and One-Minute Interval Intraday Open-Close Data.

By way of background, the Exchange currently offers End-of-Day ("EOD") and Intraday Open-Close Data (collectively, "Open-Close Data"). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every ten minutes (Ten-Minute Interval Intraday Open-Close Data) or one minute (One-Minute Interval Intraday Open-Close Data) during the trading day. Data is captured in "snapshots" taken every either every ten minutes or one minute (depending on the applicable report) throughout the trading day and is available to subscribers within five minutes of the conclusion of each applicable interval.⁴

All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and potential customers may purchase it (or receive a sample) only if they voluntarily choose to do so. The Exchange currently offers a free trial of the Open-Close Data products under which a requesting participant may select any six-months of historical data to sample before subscribing.⁵ The purpose of the free trial is to provide prospective subscribers with a sample of the data they would receive upon subscribing, thereby allowing them to evaluate the content, structure, and value of the Exchange's Open-Close Data products before committing to a paid subscription.

The Exchange now proposes to replace the current variable, participant-

selected six-month trial window with a single fixed and uniform historical time range—July 1, 2022 through December 31, 2022—for all three Open-Close Data products (EOD, Ten-Minute Interval Intraday, and One-Minute Interval Intraday Open-Close Data). Under the proposed change, all requesting participants would receive the identical six-month dataset covering July through December 2022, rather than selecting their six-month period.

The Exchange believes that providing a uniform, fixed six-month historical time range still fulfills the overarching purpose of the free trial—namely, to give prospective subscribers a representative sample of the data they would receive upon subscribing. The July through December 2022 period provides an adequate basis for prospective subscribers to evaluate the content, structure, and analytical value of each Open-Close Data product.

Moreover, a fixed time range is easier for the Exchange to administer and ensures that every requesting participant receives the identical trial dataset. This uniformity promotes consistency and supports non-discriminatory access, as all prospective subscribers receive the same data on the same terms. The Exchange notes that the duration for which the sample data offered remains unchanged (*i.e.*, a period of six months); only the mechanism for selecting which six-month period is being standardized.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with

⁴ For example, subscribers to the Ten-Minute Interval Intraday Open-Close Data receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth.

⁵ See Securities Exchange Act Release No. 104365 (December 11, 2025), 90 FR 58319 (December 16, 2025) (SR-CBOE-2025-082).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

³ The Exchange initially filed the proposed fee changes on August 7, 2026 (SR-CBOE-2026-069). On August 14, 2026, the Exchange withdrew that filing and submitted this proposal.

the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed modification to the free trial provisions is consistent with the principles of Regulation NMS as it promotes the continued broadening of the availability of U.S. options market data to investors and promotes increased transparency through the continued dissemination of Open-Close Data.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the fixed July 1, 2022 through December 31, 2022 time range applies uniformly to all requesting participants. Every prospective subscriber receives access to the identical sample dataset on the same terms, without differentiation among market participants. The Exchange further notes that the free sample (and the Open-Close Data products available for purchase) remain entirely voluntary; no participant is required to request the sample or purchase the data, and the Exchange is not required by any rule or regulation to offer the Open-Close Data.

The Exchange also believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market by simplifying and standardizing the administration of the free trial, thereby promoting efficient access to market data on uniform terms for all interested participants.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁹ which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed modification to the free trial provisions provides for an equitable allocation because the fixed July 1, 2022 through December 31, 2022 trial time range is made available on identical terms to every requesting participant, without differentiation based on the type or size of the market participant.

The free trial itself imposes no charge on requesting participants. Moreover, the proposed change does not alter the fees assessed for the underlying Open-Close Data products; it modifies only the mechanism by which the sample data is administered. Accordingly, the Exchange believes the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among all persons who may seek to sample the Exchange’s Open-Close Data products.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is an administrative modification to the terms of a voluntary free trial of the Exchange’s Open-Close Data products. The fixed time range of July 1, 2022 through December 31, 2022 applies uniformly to any requesting participant and does not differentiate among market participants.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to offer their own comparable products and trials. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. The proposed free trial terms apply uniformly to any requesting participant, in that the Exchange does not differentiate between the different market participants that may request the free trial. All requesting participants receive the identical trial dataset on the same terms.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and paragraph (f) of Rule 19b-4¹¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-073 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CBOE-2026-073. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2026-073 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-16948 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

⁸ *Id.*

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106145; File No. SR–NasdaqTX–2026–038]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Connectivity Schedule and Discontinue a Previously Proposed Offering

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 14, 2026, Nasdaq Texas, LLC (“Nasdaq Texas” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering that was previously proposed but not implemented.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaqtx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering³ that was previously proposed but not implemented.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than the Exchange, and the Exchange has provided existing customers with 90-days' notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange's rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data feeds delivered to the Nasdaq Data Center via a wireless network, including

microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions.⁵ The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days' notice of their termination prior to the offerings' effective termination date.

Finally, the Exchange proposes to discontinue the POD offering described in SR–BX–2024–021. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of virtual or dedicated servers in the colocation space. The Exchange stated in SR–BX–2024–021 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR–BX–2024–021. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and not proceed with implementation of POD as described in SR–BX–2024–021.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the availability of any currently offered Exchange service. The proposal also would thus update the Exchange's rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100481 (July 9, 2024), 89 FR 57458 (July 15, 2024) (SR–BX–2024–021). See also Securities Exchange Act Release No. 104736 (Jan. 29, 2026), 91 FR 4980 (Feb. 3, 2026) (SR–BX–2026–005 (proposing, among other things, to convert Nasdaq BX, Inc. (“BX”) from a corporation organized under the laws of the State of Delaware to a Texas limited liability company (“LLC”) and change the name of BX to “Nasdaq Texas, LLC”).

⁴ See proposed Rule General 8, Section 1(b).

⁵ See Proposed Rule General 8, Section 1(b).

⁶ 15 U.S.C. 78f(b).

of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange's rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange's rulebook. The Exchange has provided existing customers with 90-days' notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than the Exchange. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025. Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR-BX-2024-021 will make clear that the Exchange does not offer, and will not proceed with implementing, those services.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90-days' notice to existing customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those wireless connectivity services, which terminated effective August 31, 2025. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange's rulebook by ensuring

that the offerings reflected in the rulebook are currently available or otherwise accurately described.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90-days' notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90-days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. And the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current availability of its services and removes obsolete provisions that no longer reflect operative offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NasdaqTX-2026-038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁷ 15 U.S.C. 78f(b)(5).

All submissions should refer to file number SR–NasdaqTX–2026–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NasdaqTX–2026–038 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16947 Filed 8–19–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106142; File No. SR–NASDAQ–2026–066]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange’s Connectivity Schedule and Discontinue a Previously Proposed Offering

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 14, 2026, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services; (2) amend Equity 7, Section 115(c) to delete obsolete QIX-protocol-related text and associated fees for certain Computer to Computer Interface (“CTCI”) Stations; (3) discontinue a certain Proximity-On-Demand (“POD”) offering that was previously proposed but not implemented; and (4) make associated non-substantive, conforming changes.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services; (2) amend Equity 7, Section 115(c) to delete obsolete QIX-protocol-related text and associated fees for certain Computer to Computer Interface (“CTCI”) Stations; (3) discontinue a certain Proximity-On-Demand (“POD”) offering³ that was previously proposed but not implemented; and (4) make associated non-substantive, conforming changes.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and

explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than Nasdaq, and the Exchange has provided existing customers with 90 days’ notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange’s rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data feeds delivered to the Nasdaq Data Center via a wireless network, including microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions. The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days’ notice of their termination prior to the offerings’ effective termination date.

The Exchange also proposes to remove the related Remote Multi-cast ITCH Wave Ports and associated

¹⁰ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100445 (June 27, 2024), 89 FR 55285 (July 2, 2024) (SR–NASDAQ–2024–030).

⁴ See proposed Rule General 8, Section 1(b).

wireless subscription discount language from Equity 7, Section 115(g)(1) because those provisions are associated with the wireless subscriptions under Rule General 8, Section 1(b) that the Exchange proposes to delete. The Exchange also proposes non-substantive changes to renumber Equity 7, Section 115 accordingly.

Next, the Exchange proposes to delete Equity 7, Section 115(c), which sets forth the fees for Computer to Computer Interface (“CTCI”) Stations for MFUND, including the per station fee and disaster recovery port fee. CTCI is a legacy order entry protocol that allowed customers to send orders and report transactions directly from their computers to Nasdaq’s computers. The protocol is now outdated, as the Financial Information eXchange (“FIX”) protocol is the industry standard for this functionality. No customers have subscribed to this service or offering since November 22, 2021. Accordingly, the Exchange proposes to delete Equity 7, Section 115(c) in its entirety and renumber the subsequent subparagraphs of Equity 7, Section 115 accordingly.

Finally, the Exchange proposes to discontinue the POD offering described in SR–NASDAQ–2024–030. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of virtual or dedicated servers in the colocation space. The Exchange stated in SR–NASDAQ–2024–030 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR–NASDAQ–2024–030. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and will not proceed with implementation of POD as described in SR–NASDAQ–2024–030.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the availability of any currently offered Exchange service. The proposal also would thus update the Exchange’s rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange’s rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange’s rulebook. The Exchange has provided existing customers with 90 days’ notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than Nasdaq. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, as well as the corresponding Remote Multi-cast ITCH Wave Ports and discount language in Equity 7, Section 115(g)(1), will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025. Deleting Equity 7, Section 115(c) will similarly remove obsolete rule text and fees for CTCI Stations for MFUND, a legacy order entry protocol that is outdated and for which there have been no customer subscriptions since November 22, 2021. Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR–NASDAQ–2024–030 will make clear that the Exchange does not offer, and will not proceed with implementing, those services. The proposed non-substantive, conforming changes will ensure that the Exchange’s rulebook remains internally consistent after the deletion of obsolete provisions, including by renumbering affected provisions and removing cross-references or text that would otherwise refer to discontinued services. These changes are consistent with Section 6(b)(5) because they would reduce potential confusion, improve the organization and accuracy of the Exchange’s rules, and help market participants understand which

Exchange services and fees remain operative.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90 days’ notice to existing customers, and the relevant feeds remain available from third-party vendors other than Nasdaq. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those wireless connectivity services, which terminated effective August 31, 2025. The CTCI Stations for MFUND that the Exchange proposes to remove from its fee schedule have had no customer subscriptions since November 22, 2021. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange’s rulebook by ensuring that the offerings reflected in the rulebook are currently available or otherwise accurately described.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90 days’ notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; CTCI Stations for MFUND, a legacy order entry protocol to which no customers have subscribed since November 22, 2021; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90 days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than Nasdaq. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. The CTCI Stations-related provisions are obsolete because there have been no customer subscriptions since November 22, 2021, and the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current availability of its services and removes obsolete provisions that no longer reflect operative offerings. The associated non-substantive, conforming changes likewise will not impose any burden on competition because they are limited to maintaining internal consistency in the rulebook after the deletion of obsolete provisions, including through renumbering and the removal of cross-references or text that would otherwise refer to discontinued services. These conforming changes do not modify any fee, service, access requirement, or competitive term applicable to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become

operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2026-066 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NASDAQ-2026-066. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from

publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2026-066 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-16945 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106147; File No. SR-CboeBZX-2026-064]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Regarding Certain Free Trials

August 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2026, Cboe BZX Exchange, Inc. ("BZX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to amend the free trial provisions for its End-of-Day ("EOD") Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data to replace the current participant-selected six-month historical data window with a fixed, uniform time range of July 1, 2022 through December 31, 2022 for all three products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (<https://www.cboe.com/us/equities/>

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to modify the free trial provisions applicable to its Open-Close Data products. Specifically, the Exchange proposes to replace the current free trial language—which permits each requesting participant to select any six-month window of historical data—with a fixed, uniform historical time range of July 1, 2022 through December 31, 2022, applicable to all three Open-Close Data products: End-of-Day (“EOD”) Open-Close Data, Ten-Minute Interval Intraday Open-Close Data, and One-Minute Interval Intraday Open-Close Data.

By way of background, the Exchange currently offers End-of-Day (“EOD”) and Intraday Open-Close Data (collectively, “Open-Close Data”). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every ten minutes (Ten-Minute Interval Intraday Open-Close Data) or one minute (One-Minute Interval

Intraday Open-Close Data) during the trading day. Data is captured in “snapshots” taken every every ten minutes or one minute (depending on the applicable report) throughout the trading day and is available to subscribers within five minutes of the conclusion of each applicable interval.³

All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and potential customers may purchase it (or receive a sample) only if they voluntarily choose to do so. The Exchange currently offers a free trial of the Open-Close Data products under which a requesting participant may select any six-months of historical data to sample before subscribing.⁴ The purpose of the free trial is to provide prospective subscribers with a sample of the data they would receive upon subscribing, thereby allowing them to evaluate the content, structure, and value of the Exchange's Open-Close Data products before committing to a paid subscription.

The Exchange now proposes to replace the current variable, participant-selected six-month trial window with a single fixed and uniform historical time range—July 1, 2022 through December 31, 2022—for all three Open-Close Data products (EOD, Ten-Minute Interval Intraday, and One-Minute Interval Intraday Open-Close Data). Under the proposed change, all requesting participants would receive the identical six-month dataset covering July through December 2022, rather than selecting their six-month period.

The Exchange believes that providing a uniform, fixed six-month historical time range still fulfills the overarching purpose of the free trial—namely, to give prospective subscribers a representative sample of the data they would receive upon subscribing. The July through December 2022 period provides an adequate basis for prospective subscribers to evaluate the content, structure, and analytical value of each Open-Close Data product.

Moreover, a fixed time range is easier for the Exchange to administer and ensures that every requesting participant receives the identical trial dataset. This uniformity promotes

consistency and supports non-discriminatory access, as all prospective subscribers receive the same data on the same terms. The Exchange notes that the duration for which the sample data offered remains unchanged (*i.e.*, a period of six months); only the mechanism for selecting which six-month period is being standardized.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed modification to the free trial provisions is consistent with the principles of Regulation NMS as it promotes the continued broadening of the availability of U.S. options market data to investors and promotes increased transparency through the continued dissemination of Open-Close Data.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the fixed July 1, 2022 through December 31, 2022 time range applies uniformly to all requesting

³ For example, subscribers to the Ten-Minute Interval Intraday Open-Close Data receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth.

⁴ See Securities Exchange Act Release No. 104367 (December 11, 2025), 90 FR 58358 (December 16, 2025) (SR-ChoeBZX-2025-151).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

participants. Every prospective subscriber receives access to the identical sample dataset on the same terms, without differentiation among market participants. The Exchange further notes that the free sample (and the Open-Close Data products available for purchase) remain entirely voluntary; no participant is required to request the sample or purchase the data, and the Exchange is not required by any rule or regulation to offer the Open-Close Data.

The Exchange also believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market by simplifying and standardizing the administration of the free trial, thereby promoting efficient access to market data on uniform terms for all interested participants.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed modification to the free trial provisions provides for an equitable allocation because the fixed July 1, 2022 through December 31, 2022 trial time range is made available on identical terms to every requesting participant, without differentiation based on the type or size of the market participant. The free trial itself imposes no charge on requesting participants. Moreover, the proposed change does not alter the fees assessed for the underlying Open-Close Data products; it modifies only the mechanism by which the sample data is administered. Accordingly, the Exchange believes the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among all persons who may seek to sample the Exchange's Open-Close Data products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is an administrative modification to the terms of a voluntary free trial of the Exchange's Open-Close Data products. The fixed time range of July 1, 2022 through December 31, 2022 applies uniformly to any requesting participant and does not differentiate among market participants.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to offer their own comparable products and trials. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. The proposed free trial terms apply uniformly to any requesting participant, in that the Exchange does not differentiate between the different market participants that may request the free trial. All requesting participants receive the identical trial dataset on the same terms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and paragraph (f) of Rule 19b-4¹⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-064 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2026-064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-064 and should be submitted on or before September 10, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-16949 Filed 8-19-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36302; File No. 812-16021]

Eagle Point Credit Management LLC and Eagle Point Trinity Senior Secured Lending Company

August 17, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of an application under Section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from Sections 18(a)(2), 18(c), 18(i), and 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies that have elected to be regulated as business development companies to issue multiple classes of shares with varying sales loads and asset-based distribution and/or service fees.

APPLICANTS: Eagle Point Credit Management LLC and Eagle Point Trinity Senior Secured Lending Company.

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

¹¹ 17 CFR 200.30-3(a)(12).

FILING DATE: The application was filed on April 24, 2026 and amended on July 13, 2026.

HEARING OR NOTIFICATION OF HEARING:

An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on September 11, 2026, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service.

Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Nauman S. Malik, Esq., c/o Eagle Point Credit Management LLC, 600 Steamboat Road, Suite 202, Greenwich, CT 06830, and copies to: Harry S. Pangas, Esq., Darius I. Ravangard, Esq., and Alexander C. Karampatsos, Esq., Dechert LLP, 1900 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Trace W. Rakestraw, Senior Special Counsel at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' Amended Application, dated July 13, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, <https://www.sec.gov/search-filings>.

You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16936 Filed 8–19–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36300; 812–16062]

Valued Advisers Trust and Alaia Capital, LLC

August 17, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (“Disclosure Requirements”).

SUMMARY OF APPLICATION: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

APPLICANTS: Valued Advisers Trust and Alaia Capital, LLC.

FILING DATES: The application was filed on July 24, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time on September 11, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests

should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission:

Secretarys-Office@sec.gov. Applicants: Alexander Karampatsos, alexander.karampatsos@dechert.com, Allison Fumai, allison.fumai@dechert.com, Dechert LLP; with a copy to: Stephen Jacobs, Alaia Capital, LLC, 60 East 42nd Street, 26th Floor, New York, NY 10165.

FOR FURTHER INFORMATION CONTACT:

Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated July 24, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16934 Filed 8–19–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21670 and #21671; WISCONSIN Disaster Number WI–20009]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Wisconsin

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Wisconsin (FEMA–4923–DR), dated June 30, 2026.

Incident: Severe Storms, Tornadoes, and Flooding.

DATES: Issued on August 17, 2026.

Incident Period: April 13, 2026 through April 23, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Shaquille Lewis, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Wisconsin, dated June 30, 2026, is hereby amended to include the following areas as adversely affected by the disaster.

Primary County: Racine.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-17020 Filed 8-19-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21789; CALIFORNIA Disaster Number CA-20045 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Economic Injury Disaster Loan (EIDL) declaration for the state of California dated August 14, 2026.

Incident: 2026 Los Palos Incident.

DATES: Issued on August 14, 2026.

Incident Period: June 17, 2026

through June 25, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 14, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's EIDL declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Los Angeles.

Contiguous Counties:

California: Kern, Orange, San Bernardino, Ventura

The Interest Rates are:

	Percent
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for economic injury is 217890.

The states which received an EIDL declaration are California.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-16952 Filed 8-19-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21787 and #21788; NORTHERN MARIANA ISLANDS Disaster Number MP-20004]

Administrative Disaster Declaration of a Rural Area for the Commonwealth of Northern Mariana Islands

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative disaster declaration of a rural area for the commonwealth of Northern Mariana Islands dated August 14, 2026.

Incident: Super Typhoon Bavi.

DATES: Issued on August 14, 2026.

Incident Period: July 4, 2026 through July 12, 2026.

Physical Loan Application Deadline Date: October 13, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 14, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Shaquille Lewis, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration of a rural area applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Municipalities: Saipan, Tinian.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 217878 and for economic injury is 217880.

The commonwealth which received an SBA Administrative rural declaration are Northern Mariana Islands.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,*Associate Administrator, Office of Disaster Recovery & Resilience.*

[FR Doc. 2026–16955 Filed 8–19–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION**[Disaster Declaration #21673 and #21674; MICHIGAN Disaster Number MI–20046]****Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Michigan****AGENCY:** U.S. Small Business Administration.**ACTION:** Amendment 1.**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Michigan (FEMA–4925–DR), dated June 30, 2026.*Incident:* Severe Storms, Tornadoes, and Flooding.**DATES:** Issued on August 17, 2026.*Incident Period:* April 10, 2026 through April 21, 2026.*Physical Loan Application Deadline Date:* August 31, 2026.*Economic Injury (EIDL) Loan Application Deadline Date:* March 30, 2027.**ADDRESSES:** Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.**FOR FURTHER INFORMATION CONTACT:** Shaquille Lewis, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Michigan, dated June 30, 2026, is hereby amended to include the following areas as adversely affected by the disaster.*Primary County:* Roscommon.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,*Associate Administrator, Office of Disaster Recovery & Resilience.*

[FR Doc. 2026–17023 Filed 8–19–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION**[Disaster Declaration #21785 and #21786; NEBRASKA Disaster Number NE–20026]****Administrative Disaster Declaration of a Rural Area for the State of Nebraska****AGENCY:** U.S. Small Business Administration.**ACTION:** Notice.**SUMMARY:** This is notice of an Administrative disaster declaration of a rural area for the state of Nebraska dated August 14, 2026.*Incident:* Wildfires.**DATES:** Issued on August 14, 2026.*Incident Period:* March 12, 2026 through April 2, 2026.*Physical Loan Application Deadline Date:* October 13, 2026.*Economic Injury (EIDL) Loan Application Deadline Date:* May 14, 2027.**ADDRESSES:** Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.**FOR FURTHER INFORMATION CONTACT:** Shaquille Lewis, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.**SUPPLEMENTARY INFORMATION:** Notice is hereby given as a result of the Administrator's disaster declaration of a rural area applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following area has been determined to be adversely affected by the disaster:

Primary County: Garden.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625

	Percent
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 217855 and for economic injury is 217860.

The states which received an SBA Administrative rural declaration are Nebraska.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,*Associate Administrator, Office of Disaster Recovery & Resilience.*

[FR Doc. 2026–16953 Filed 8–19–26; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE**[Public Notice: 12903]****60-Day Notice of Proposed Information Collection: Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)****AGENCY:** Department of State.**ACTION:** Notice; request for comment.**SUMMARY:** The Department of State as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed extension of this collection.
DATES: The Department will accept comments from the public up to October 19, 2026.**ADDRESSES:** You may submit comments by any of the following methods:

- **Web:** Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering “Docket Number: DOS–2026–0001” in the Search field. Then click the “Comment Now” button and complete the comment form.
- **Email:** informationcollections@state.gov.

You must include the DS form number (if applicable), information collection title, and the OMB control number, 1405–0241 in any correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Department of State is publishing notice of the extension of an existing collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veteran’s benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research,

gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (e.g., in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. The Department of State will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection

The Department of State will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. The Department of State may also utilize observational techniques to collect this information.

Form Number(s): DS–4318.

Type of Review: Extension.

B. Annual Reporting Burden

Affected Public: Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, “customers” are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

• *Estimated Number of Respondents:* 1,101,550.

• *Estimated Time per Response:* Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 1.5 hours to participate in an interview.

• *Estimated Total Annual Burden Hours:* 100,800.

• *Estimated Total Annual Cost to Public:* \$0.

C. Public Comments

The Department of State invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Alden F. Fahy,

Acting Director, Office of Privacy and Organizational Policy, Department of State.

[FR Doc. 2026–16969 Filed 8–19–26; 8:45 am]

BILLING CODE 4710–24–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 670 (Sub-No. 2)]

Notice of Rail Energy Transportation Advisory Committee Vacancies

AGENCY: Surface Transportation Board.

ACTION: Notice of vacancies on federal advisory committee and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board) hereby gives notice of two vacancies on its Rail Energy Transportation Advisory Committee (RETAC): one representative from biofuel feedstock growers or providers and biofuel refiners, processors, and distributors; and one representative from coal producers. The Board is soliciting nominations from the public for candidates to fill these vacancies.

DATES: Nominations for candidates for membership on RETAC are due September 17, 2026.

ADDRESSES: Nominations may be submitted via e-filing on the Board’s website under Docket No. EP 670 (Sub-No. 2).

FOR FURTHER INFORMATION CONTACT: Elizabeth Osburn at 202–748–4566. If

you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: The Board exercises broad authority over transportation by rail carriers, including regulation of railroad rates, practices, and service issues (49 U.S.C. 10701–47, 11101–24), the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–07), as well as railroad line sales, consolidations, mergers, and common control arrangements, (49 U.S.C. 10902, 1123–27).

The Board established RETAC in 2007 as a federal advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, railroads, and users of energy resources. RETAC operates under the Federal Advisory Committee Act (5 U.S.C. Chapter 10).

RETAC's membership is balanced and representative of interested and affected parties, consisting of not less than: one representative from each of the Class I railroads; three representatives from Class II and III railroads; three representatives from coal producers; five representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility); four representatives from biofuel feedstock growers or providers and biofuel refiners, processors, and distributors; two representatives from private car owners, car lessors, or car manufacturers; three representatives from the petroleum shipping industry; two representatives from renewable energy sources; and one representative from a labor organization. The Committee may also include up to two at large members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors.

Members are selected by the Chairman of the Board with the concurrence of a majority of the Board. The Chairman may invite representatives from the U.S. Departments of Agriculture, Energy, and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members. The members of the Board serve as *ex officio* members of the Committee.

RETAC meets at least twice per year. Meetings are typically held at the Board's headquarters in Washington, DC, but may be held virtually or in other locations. Members of RETAC serve without compensation and without reimbursement of travel expenses. Further information about RETAC is available on the RETAC page of the Board's website at www.stb.gov/resources/stakeholder-committees/retac/.

The Board is soliciting nominations from the public for candidates to fill two vacancies on RETAC: one representative from biofuel feedstock growers or providers or biofuel refiners, processors, and distributors; and one representative from coal producers. Both vacancies are for three-year terms ending September 30, 2029. According to revised guidance issued by the Office of Management and Budget, it is permissible for federally registered lobbyists to serve on advisory committees, such as RETAC, as long as they do so in a representative capacity, rather than an individual capacity. See *Revised Guidance on Appointment of Lobbyists to Fed. Advisory Comms., Bds., & Comm'ns*, 79 FR 47482 (Aug. 13, 2014). Members of RETAC are appointed to serve in a representative capacity.

Nominations for candidates to fill the vacancies should be filed in letter form and should include: (1) the name, position, and business contact information of the candidate to include email address and phone number; (2) the interest the candidate will represent; (3) a summary of the candidate's experience and qualifications for the position; (4) a representation that the candidate is willing to serve as a member of RETAC; and, (5) a statement that the candidate agrees to serve in a representative capacity. Candidates may nominate themselves. Nominations should be filed with the Board by September 17, 2026. Please note that submissions will be posted publicly on the Board's website under Docket No. EP 670 (Sub-No. 2).

Authority: 49 U.S.C. 1321; 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: August 18, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2026–17004 Filed 8–19–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36873]

Union Pacific Corporation and Union Pacific Railroad Company—Control—Norfolk Southern Corporation and Norfolk Southern Railway Company

AGENCY: Surface Transportation Board.

ACTION: Decision No. 30 in Docket No. FD 36873; removing the proceedings from abeyance; adopting a procedural schedule; directing the production of certain material; and ruling on a pending procedural request.

SUMMARY: On May 28, 2026, the Board accepted for consideration (1) the revised, primary application (the Revised Application) filed by Union Pacific Corporation (UPC), Union Pacific Railroad Company (UP) (collectively, Union Pacific), Norfolk Southern Corporation (NSC), and Norfolk Southern Railway Company (NS) (collectively, Norfolk Southern) (Union Pacific and Norfolk Southern collectively, Applicants) as well as (2) a related application in *Union Pacific Corp.—Control—Peoria & Pekin Union Railway*, Docket No. FD 36873 (Sub-No. 1). However, the Board held both proceedings in abeyance pending further Board order and the submission of certain additional information. Applicants filed additional information in two supplements submitted in July. In this decision, the Board removes the proceedings from abeyance, adopts a procedural schedule, directs Applicants to resubmit certain workpapers with unfiltered data, rules on a pending procedural request, and advises that the Board will address other outstanding motions at a future date.

DATES: The effective date of this decision is August 18, 2026. Notices of intent to participate in these proceedings are due by September 4, 2026. Descriptions of anticipated responsive, including inconsistent, applications are due by September 9, 2026. Petitions for waiver or clarification with respect to such applications are due by October 5, 2026. Responsive environmental information and environmental verified statements for responsive, including inconsistent, applications are due by November 13, 2026. Comments, protests, requests for conditions, and any other evidence and argument in opposition to the Revised Application are due by November 18, 2026. All responsive, including inconsistent, applications are also due by November 18, 2026. Any preliminary comments from the U.S. Department of Justice (DOJ) and U.S. Department of

Transportation (USDOT) are due by December 3, 2026. Responses to comments, protests, requests for conditions, and other opposition—including responses to DOJ and USDOT filings—are due by February 16, 2027. Rebuttal in support of the Revised Application is also due by February 16, 2027. Responses to responsive, including inconsistent, applications are also due by February 16, 2027. Rebuttals in support of responsive, including inconsistent, applications must be filed by March 29, 2027. A public hearing will be held on a date or dates to be determined in a subsequent decision. Final briefs will be due by May 28, 2027.

ADDRESSES: Any filing submitted in the primary or related proceeding, referring to Docket No. FD 36873, must be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each filing must be sent (and may be sent by email only, if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) UP's representative, Michael L. Rosenthal, Covington & Burling LLP, One CityCenter, 850 Tenth Street NW, Washington, DC 20001; (4) NS's representative, Raymond A. Atkins, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005; (5) any other person designated as a Party of Record on the service list; and (6) the assigned administrative law judge (ALJ), the Hon. Jenifer Soulikias, at alj.soulikias.inbox@stb.gov.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe at (202) 915-3555. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: Applicants seek Board approval in the primary docket for (i) the acquisition of control by UPC of NSC, and through NSC of NS and NS's rail carrier subsidiaries, and (ii) the resulting common control by UPC of UP and NS and the consolidation of the rail operations of UP and NS. This proposal is referred to as the Transaction.

On July 30, 2025, Applicants filed a notice of intent to file their original application (the Application). By decision served August 28, 2025, the Board found the Transaction to be a "major" transaction under 49 CFR

1180.2(a), as it is a control transaction involving two or more Class I railroads. UPC presently controls UP, a Class I railroad, and proposes to acquire common control of NS, also a Class I railroad. *See Union Pac. Corp.—Control—Norfolk S. Corp.* (Decision No. 3), FD 36873, slip op. at 2 (STB served Aug. 28, 2025). The Board took other actions in Decision No. 3, including assigning Judge Soulikias as ALJ to provide initial resolution of discovery disputes. *Id.* The Board later invited public comments on a proposed procedural schedule for the proceeding. *See Union Pac. Corp.—Control—Norfolk S. Corp.*, FD 36873, slip op. at 2 (STB served Sept. 26, 2025).

Applicants filed the Application on December 19, 2025, seeking authority for the Transaction, which the Board rejected in a decision served on January 16, 2026. The Board found that the Application was incomplete because it did not contain certain information required by the Board's regulations. *See Union Pac. Corp.—Control—Norfolk S. Corp.*, (Decision No. 9), FD 36873 et al., slip op. at 1 (STB served Jan. 16, 2026). The Board noted, however, that its rejection was without prejudice to Applicants filing a revised application. *Id.* at 2.

On April 30, 2026, Applicants filed the Revised Application. Various stakeholders filed comments concerning the completeness of the Revised Application, and Applicants filed a response to those comments on May 12, 2026.

The Board determined that the Revised Application was complete. *Union Pac. Corp.—Control—Norfolk S. Corp.*, (Decision No. 21), FD 36873 et al., slip op. at 12-17 (STB served May 28, 2026). The Board added, however, that although Applicants had included sufficient information to satisfy the completeness requirements for a "major" transaction application, there were several aspects of the Revised Application that were unclear or underdeveloped and required supplementation. *Id.* at 17-18. As such, the Board sought specific information concerning: (1) Applicants' claimed competitive enhancements; (2) access for 2-to-1 and 3-to-2 shippers to Class I railroads after the Transaction; (3) Applicants' public benefit claims, including their diversion analysis; (4) Applicants' Service Assurance Plan; (5) gateway issues involving two terminal railroads (the Terminal Railroad Association of St. Louis (TRRA) and the Kansas City Terminal Railway (KCT)) and the TTX Company (TTX), a rail carpooling entity; (6) Applicants' market share projections; (7) downstream

merger impacts; and (8) passenger rail matters. *Id.* at 19-32.

The Board required Applicants to supplement their Revised Application with this detailed information by July 27, 2026. *Id.* at 18-19. The Board held the proceedings in abeyance pending submission and review of the supplemental information. *Id.* at 19.

On July 7, 2026, Applicants filed a supplement concerning TRRA, KCT, and TTX (the July 7 Supplement). Applicants filed a second supplement on July 27, 2026, relating to the remaining subjects described in Decision No. 21 (the July 27 Supplement) (collectively, the July 7 Supplement and the July 27 Supplement are referred to as the July Supplements). Applicants support the July 27 Supplement with Supplemental Verified Statements from Dr. Mark Israel, Dr. Elizabeth Bailey, and David Hunt. Applicants also provide a Verified Statement from Dr. Kristof Zetenyi.

In the July 27 Supplement, Applicants also make four new commitments as part of the Transaction. Specifically, Applicants commit to: (1) expanding their proposed Committed Gateway Pricing (CGP) program to include bulk unit train traffic as well as shippers at "competitively served" BNSF Railway Company (BNSF) and CSX Transportation, Inc. (CSXT) origins and destinations; (2) a Targeted Access Program whereby sole-served shippers in a terminal area become eligible for reciprocal switching if service falls below certain performance standards; (3) a condition Applicants contend is designed to preserve the pre-merger level of access to Class I railroads for 2-to-1 and 3-to-2 shipper facilities; and (4) a Rate Alternative Dispute Resolution Program that could be implemented if anticipated public benefits have not materialized in a timely manner. (July 27 Suppl. 8-10.)

Applicants also note that after they submitted the July 7 Supplement, they entered into a settlement agreement with Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries (collectively, CN) (the agreement is referred to as the CN Settlement Agreement). (*Id.* at 5.) The CN Settlement Agreement, which is contingent on Board approval and completion of the merger, provides for, among other things, (1) CN's acquisition of "NS's ownership interest in" TRRA, (*id.*); (2) CN's acquisition of NS's ownership interest in KCT; (3) CN's acquisition of "a portion of UP's ownership interest in Peoria and Pekin Union Railway Company (PPU), such that UP/NS and CN will each have a 50% ownership stake in PPU," (*id.* at 6

n.1); and (4) UP's selection of CN to provide access to 2-to-1 and 3-to-2 shipper facilities, if feasible, where the Board requires Applicants to grant an additional Class I railroad access, (*id.* at 5–6.)

On August 6, 2026, the Board received a joint motion for summary denial of the Revised Application from the American Chemistry Council (ACC), American Fuel & Petrochemical Manufacturers (AFPM), Alliance for Chemical Distribution (ACD), National Industrial Transportation League (NITL), and The Fertilizer Institute (TFI) (collectively, Joint Associations). The Board also received motions for summary denial from CSXT and BNSF as well as comments from the National Grain and Feed Association (NGFA) asserting that Applicants have failed to present a *prima facie* case. Similarly, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC (CPKC) also commented regarding whether Applicants have presented a *prima facie* case. Other filings were submitted, including a joint letter from the state attorney generals for Montana, Iowa, Florida, North Dakota, South Dakota, Tennessee, and Kansas. The Board will address the motions and comments (many of which focus on merits-related issues) in a subsequent decision.

Additional Material and Abeyance

In *Decision No. 21* accepting the Revised Application, the Board did not issue a procedural schedule under 49 U.S.C. 11325 and 49 CFR 1180.4(c)(7)(i), finding that Applicants' supplemental information was necessary to allow the Board to thoroughly evaluate, and the public to meaningfully comment on, the proposed Transaction. *Decision No. 21*, FD 36873 et al., slip op. at 17–18. After reviewing the July Supplements and comments, the Board finds that the record now is sufficient to allow the record development in the proceedings to resume. The finding reflects no view on the merits of the Revised Application or on any matter raised in the motions and comments filed since July 27, which the Board will address separately. The Board will remove the proceedings from abeyance, including the environmental review of the Transaction,¹ establish and publish a procedural schedule in the **Federal Register**, and solicit comments on the merits of the Revised Application and

the related application.² Those comments may also address the merits of the information discussed in the July Supplements, including Applicants' new commitments and the CN Settlement Agreement.

The Board will, however, require Applicants to re-submit certain workpapers to include data not previously presented. In certain parts of the Revised Application and July 27 Supplement, Applicants applied filtering or screening criteria to the data in the workpapers that their experts submitted, purportedly because they did not consider the omitted data to be material to the Applicants' analyses, and to streamline the presentation of the remaining data. In several instances, these filters removed substantial portions of the underlying analysis from the final presentation layer. For example, in Applicants' diversion projections in the July 27 Supplement's responses to MS–1, their expert Hunt applied criteria that seem to have filtered out at least 31% of merchandise/bulk locations, 59% of intermodal locations, and 30% of automotive locations. (*See* July 27 Suppl. 352–356, Suppl. V.S. Hunt 30–34.) Hunt's Verified Statement submitted with the Revised Application also indicated that Market Share Exhibit E–2 covered only “major commodity traffic flows corresponding to 80% of current state UP and NS traffic.” (Rev. Appl. 2–592, V.S. Hunt 205.) Likewise, Bailey stated in her Verified Statement submitted with the Revised Application that the share analyses presented in Appendices D, E, and F were expressly “restricted to major points on the parties' combined system, major corridor commodity pairs, and major origin-commodity pairs/major destination-commodity pairs.” (Rev. Appl. 2–13, Bailey 6; *see also* Rev. Appl. 2–159, 2–161, 2–164 (Apps. D–F).) Those Appendices appear to be based on an analysis of 80% of the traffic at issue in this proceeding. These limitations underscore that what was provided was partial rather than exhaustive.

Even if these excluded locations in fact represent “statistical outliers” (July 27 Suppl. 352, Suppl. V.S. Hunt 30), the Board will require Applicants to make these and other excluded or filtered data from their worksheets available for inspection by the Board and other persons authorized to view them under this case's protective order. The Board directed Applicants to provide an

impact analysis for *each* route on which Applicants' combined market share will increase as a result of the Transaction, *Decision No. 21*, FD 36873 et al., slip op. at 30, and Applicants committed to “address all [such] routes,” “not just the ‘major’ corridor-commodity pairs,” (Applicants' Letter 1, Jun. 26, 2026.) To satisfy these obligations, Applicants must provide all underlying rows of data supporting their experts' analyses, not merely the subsets selected for presentation.

To permit the Board and commenting parties to determine the data elements that were excluded from Applicants' exhibits and whether their inclusion would alter any conclusions, Applicants will be directed to provide additional information by August 28, 2026. Specifically, Applicants must refile any workpaper to which screening or filtering criteria were applied, or that otherwise omitted underlying data or truncated the full dataset—including, but not limited to, the workpapers underlying the omissions discussed here.³ Applicants must regenerate (making programming changes if necessary) and refile all such workpapers without applying any filtering or screening criteria, and each refiled workpaper must identify which data were included in the immediate previous version and which additional data have been restored to render the workpaper complete. This directive applies only to workpapers and not to the associated narratives or verified statements.

Request for Expedited Proceeding Regarding TRRA

In the July 7 Supplement, Applicants request that the Board determine in advance of a decision on the merits of the Transaction whether Applicants' various proposals to divest control of TRRA would satisfy the proposed divestiture condition. (July 7 Suppl. 7.)⁴ They assert that an early determination “would increase the likelihood that Applicants and TRRA's other owners cooperatively resolve the control issue.” (*Id.* at 7.) Applicants propose a 90-day procedural schedule on the issue. (*Id.* at 12.) Several parties object to Applicants' request that the Board set a separate schedule to consider the TRRA issue.

³ Applicants are reminded to file pursuant to the guidelines the Board has established. *See Decision No. 21*, FD 36873 et al, slip op. at 32–33.

⁴ Applicants list five options for divestiture, including their preferred option, Option A, which involves divesting NS's shares and the attendant NS board seat to one or more existing owners of TRRA. (July 7 Suppl. 13, 15.)

¹ The environmental review will be based on the revised traffic projections that Applicants submitted to the Office of Environmental Analysis (OEA) on July 27, 2026.

² The Board has received other requests from various parties and will address those in one or more separate decisions.

(See, e.g., BNSF Reply 1, July 20, 2026; CSXT Reply 1–2, July 22, 2026.)

Although Applicants and CN have since agreed that CN “will acquire NS’s ownership interest in” TRRA (July 27 Suppl. 5), Applicants have not withdrawn their request. (*Id.* at 207.)⁵

The Board declines to make such a determination prior to record development. Control of TRRA is best evaluated within the context of the larger Transaction and granting the request would be premature. Therefore, Applicants’ request for an expedited proceeding regarding their proposed divestiture options will be denied.

Procedural Schedule. On July 30, 2025, concurrent with their notice of intent to file an application, Applicants filed a petition to establish a procedural schedule. Applicants proposed a procedural schedule that provided for a 390-day period between the date an application is filed and the date on which the Board would serve its final decision on the merits. (Pet., App. A.) Under the proposal, the evidentiary record would be open for 270 days, amounting to a 300-day schedule between the application filing date and the close of the record. (*Id.*) On September 26, 2025, the Board served a decision detailing the proposed procedural schedule and proposing its own modifications to the schedule. See *Union Pac. Corp.—Control—Norfolk S. Corp.* (Decision No. 5), FD 36873 (STB served Sept. 26, 2025). The Board proposed a 90-day period to file written comments and a corresponding 90-day period to file responses, as Applicants had proposed. *Id.* at 2. The Board also proposed that the time frame for preliminary comments from DOJ and USDOT conform to the time frame set forth in 49 U.S.C. 11325. *Id.* Further, the Board proposed that any necessary public hearing or oral argument close the record, at a date to be determined later in the proceeding but following the submission of final briefs. *Id.* at 2–3. The Board also requested public comments on the procedural schedule proposed in Decision No. 5.⁶ *Id.* at 4.

⁵ The CN Settlement Agreement provides: “[i]n the event that, for any reason, none of the Existing TRRA Options can be implemented, or the STB does not approve any of them, CN will not oppose any alternative option Union Pacific may propose to satisfy the TRRA Resolution (‘Alternative TRRA Options’), provided that any such Alternative TRRA Option would not impose a material financial obligation on CN.” (July 27 Suppl. 207.)

⁶ The deadline to submit comments on the proposed procedural schedule was November 20, 2025—prior to Applicants’ submission of their initial December 19, 2025 Application. See *Union Pac. Corp.—Control—Norfolk S. Corp.*, FD 36873 (STB served Nov. 14, 2025). Accordingly, some specific deadlines proposed in the comments are outdated.

The Board received comments on the proposed procedural schedule from each Class I railroad, including a comment from Applicants, and from Reading Blue Mountain & Northern Railroad, Co. (RBMN). The Board also received comments from the Freight Rail Customer Alliance (FRCA), NGFA, and Joint Associations. In addition, the Board received comments from several parties in the Houston, Tex. area, including the City of Houston, Harris County Attorney Christian D. Menefee, Harris County Commissioner Adrian Garcia, and the Joint East End Super Neighborhood Coalition (East End Coalition)⁷ (collectively, Houston parties).⁸

In their comments, Applicants request that the Board adopt a maximum 345-day procedural schedule between the date an application is filed and the date the Board serves a final decision, rather than the 390-day schedule Applicants initially proposed. (Applicants Comments 2, Nov. 13, 2025.) Under their revised proposal, the evidentiary record would be open for 225 days. (*Id.*, App. A.) Specifically, Applicants argue that the Board should shorten the periods to file: (1) comments, protests, requests for conditions, and responsive applications; (2) responses to comments, rebuttal in support of the primary application and any related applications, and responses to responsive applications; and (3) final briefs. (*Id.* at 2–3.) According to Applicants, a shorter schedule is warranted because the proposed Transaction is end-to-end and thus “does not present any complex competitive or operating issues.” (*Id.* at 2.) Applicants also argue that their initial proposal presumed discovery would commence after the Board accepted an application, but Applicants began responding to discovery requests before the acceptance and the Board has appointed an ALJ to handle discovery disputes. (*Id.* at 3.) Applicants state that

⁷ Representing Super Neighborhood 63 (Second Ward), Super Neighborhoods 64 & 88 (Greater Eastwood, Lawndale, Wayside), and Super Neighborhoods 85 & 82 (Magnolia Park, Manchester, Smith Addition, Harrisburg). (E. End Coal. Comments 1, Nov. 13, 2025.)

⁸ The Board also received letters from several elected officials that do not respond to the proposed procedural schedule but urge the Board to provide meaningful public comment periods. (See Hernandez Letter 1, Nov. 13, 2025; Ramirez Letter 2, Nov. 13, 2025; Castillo Letter 2, Nov. 13, 2025.) Lindsay Williams, president of the Eastwood Civic Association and Super Neighborhood 64 & 68 in Houston, filed a letter titled as a comment on the proposed procedural schedule. (Williams Letter 1, Nov. 19, 2025.) Williams’ letter addresses the merits of the proposed Transaction, rather than the procedural schedule, and thus it will not be considered here.

their proposal is consistent with presidential initiatives to eliminate or reduce regulations that undermine the national interest. (*Id.* at 2 (citing Exec. Order No. 14,219, 90 FR 10583 (Feb. 19, 2025)).) Additionally, Applicants ask the Board to specify that the record would close (and a hearing would occur) no more than 30 days after final briefs are due, a final decision would be served no more than 90 days after the record closes, and such decision would take effect no more than 30 days after it is served. (*Id.* at 3.)

Most other commenters request that the Board adopt a longer procedural schedule.⁹ BNSF, CSXT, RBMN, Joint Associations, FRCA, and NGFA request that the Board adopt the longest evidentiary period permitted by law, amounting to a 395-day schedule between the application filing date and the close of the record. See 49 U.S.C. 11325(b)(3) (requiring that the Board conclude evidentiary proceedings by one year after the Board publishes a notice of the application). CPKC argues that the Board should extend evidentiary proceedings by approximately three months, about one month short of the statutory deadline. Generally, these commenters argue that stakeholders and the Board would benefit from additional time to analyze the proposed transaction, which is unprecedented and likely to raise many complex issues.¹⁰

⁹ The Houston parties request that the Board provide a meaningful public comment period but do not request specific changes to the proposed procedural schedule. (See Menefee Comments 2, Nov. 20, 2025; City of Houston Comments 3, Nov. 13, 2025; Garcia Comments 3, Nov. 13, 2025; E. End Coal. Comments 3, Nov. 13, 2025.) Rather, the Houston parties raise arguments regarding the merits of the proposed transaction and potential environmental impacts, which will not be considered in this decision. Comments involving environmental issues should be submitted to OEA and will be considered during the environmental review process.

¹⁰ (See CSXT Comments 3, Nov. 19, 2025 (arguing that the Board will be “faced with an unprecedented proposal where many highly complex issues could arise under never-applied standards”); BNSF Comments 1, 4–5, Nov. 13, 2025 (“No railroad merger of this scale has ever been proposed.”); CPKC Comments 4, 7, Nov. 13, 2025 (arguing that the “momentous and novel issues posed by the proposed transaction [should] receive the airing they deserve”); RBMN Comments 2, Nov. 20, 2025 (“The magnitude of this proceeding and the proposed control transaction cannot be overstated.”); Joint Ass’ns Comments 3, 5–7, Nov. 20, 2025 (arguing that the proposed merger “is unprecedented in scale, scope, and potential impact on competition, service, and the rail industry”); FRCA Comments 1, Nov. 17, 2025 (arguing that the merger application will be “the most significant ever brought before the Board” and “necessarily carries the most potential harm”); NGFA Comments 2, Nov. 17, 2025 (“[T]he proposed merger of UP and NS will be the most consequential railroad merger the STB has ever considered.”).)

BNSF, CPKC, and Joint Associations argue that the additional time should be used to permit a supplemental round of evidence and argument after the response period. BNSF requests a 60-day period for non-applicants to submit sur-replies, followed by a 60-day period for Applicants to respond to sur-replies. (BNSF Comments 4, Nov. 13, 2025; *see id.*, App. A.) BNSF argues that such filings “will sharpen and distill” key issues, assist the Board’s review, and allow parties to address issues that may arise or evolve over the next year. (*Id.* at 7–8.) CPKC requests a 60-day period for sur-replies responding to new material submitted in responses, arguing that evidence submitted in Applicants’ responses otherwise would be unchallengeable. (CPKC Comments 16–18, Nov. 13, 2025.) CPKC suggests that Applicants submit their rebuttal after sur-replies are filed, thereby retaining the right to close the record. (*Id.* at 20.) Similarly, Joint Associations request a 60-day period for sur-replies limited to addressing new analysis, data, or theories raised in responses to comments. (Joint Ass’n’s Comments 14, Nov. 20, 2025.) They propose that sur-replies precede Applicants’ rebuttal. (*Id.* at 16.)

Several commenters request that the Board extend or modify deadlines for filings contemplated by the proposed procedural schedule. NGFA and Joint Associations urge the Board to extend both the 90-day period to file opening comments and responsive applications, and the 90-day period to file responses.¹¹ (Joint Ass’n’s Comments 11, Nov. 20, 2025 (requesting 20- and 15-day extensions, respectively); NGFA Comments 3, Nov. 17, 2025 (requesting a 15-day extension for both periods).) RBMN requests that all deadlines for filings by participating parties be extended by 30 days. (RBMN Comments 3, Nov. 20, 2025.) CN requests that comments, requests for conditions, and certain responsive applications be due 150 days after the application is filed or May 29, 2026, whichever is earlier. (CN Comments 3, Nov. 13, 2025.) CSXT requests additional time for parties to file rebuttals in support of responsive, including inconsistent, applications. (CSXT Comments 11, Nov. 19, 2025 (requesting a 15-day extension).) CSXT also requests that the Board remove the requirement for non-applicants to file a description of anticipated responsive

applications 75 days after the application is filed. (*Id.* at 9–10.)

In addition, BNSF, CN, CPKC, CSXT, and Joint Associations request that the Board allow final briefs after any public hearing. They argue that post-hearing briefing would allow parties to address evidence and argument presented at the hearing and facilitate the Board’s review. (BNSF Comments 8–9, Nov. 13, 2025; CN Comments 12, Nov. 11, 2025; CPKC Comments 22–23, Nov. 11, 2025; CSXT Comments 8–9, Nov. 19, 2025; Joint Ass’n’s Comments 8–9, Nov. 20, 2025.) CPKC, CSXT, and Joint Associations also request that post-hearing briefing include both opening and reply briefs. (CPKC Comments 24, Nov. 11, 2025 (arguing that two rounds of briefing would “ensure a more effective joining of the issues”); CSXT Comments, App. A, Nov. 19, 2025; Joint Ass’n’s Comments, App. 1, Nov. 20, 2025.) Relatedly, BNSF, CN, CPKC, and Joint Associations request that the Board permit pre-hearing briefs or summaries. (BNSF Comments 8–9, Nov. 13, 2025 (arguing that pre-hearing briefs would “set the stage” for a hearing); CN Comments 12, Nov. 11, 2025 (arguing that pre-hearing briefs would identify key facts and evidence for the Board); CPKC Comments 24 & n.33, Nov. 11, 2025 (arguing that pre-hearing briefs could outline key evidentiary and legal points); Joint Ass’n’s Comments 8–9, Nov. 20, 2025 (arguing that pre-hearing summaries “are imperative for a productive hearing”).)

Evidentiary Record Deadlines. The Board declines to adopt the expedited procedural schedule proposed by Applicants. Applicants have acknowledged that the proposed Transaction is “unprecedented” and would create the nation’s first transcontinental railroad. (Applicants Notice 2, July 30, 2025.) The size and scope of a transcontinental merger could have far-reaching effects on the rail industry, shippers, and the public. *See Decision No. 21*, FD 36873, slip op. at 18 (noting the “possible implications of subsequent mergers for the long-term future of the national rail network” and impacts to “communities, employees, shortline railroads, ports, and others”). A less truncated procedural schedule will better allow stakeholders and the Board to consider the potential impacts of such a merger. When directing Applicants to file supplemental information, the Board noted that such information was “not intended to be an exhaustive list of potential questions or concerns the Board may have in assessing the Revised Application.” *Decision No. 21*, FD 36873 et al., slip op. at 19. And commenters have already

raised concerns related to other important matters, including those potentially implicated by vertical, or “end-to-end,” combinations. *See also Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500, slip op. at 3, 19, 47 (STB served Mar. 15, 2023) (declining to apply a presumption that a vertical combination will not result in competitive harm). In addition, unique and complex questions are likely to arise in this proceeding as the Board applies its 2001 merger rules for the first time.¹² *See Major Rail Consolidation Procs.*, 5 S.T.B. 539, 546 (2001) (stating that the revised rules “reflect a significant change” in how the Board applies the statutory public interest test and places a heavier burden on applicants).

The Board is not persuaded that the availability of pre-application discovery warrants a shorter comment period. Applicants argue that they initially proposed a 90-day comment period based on discovery commencing after the Board accepted an application, but Applicants’ petition to establish a procedural schedule does not discuss when discovery would commence. (Applicants Comments 3, Nov. 13, 2025; *see Pet.*, App. A.) Instead, the petition states that the 90-day comment period would provide “ample time for interested parties to comment” and provides only the date on which an ALJ would be appointed to handle discovery matters. (Applicants Pet. 2; *id.*, App. A.) The record also indicates that several discovery disputes are ongoing and may continue into the comment period.¹³ (*See, e.g., Non-Applicant Railroads Letter to ALJ*, July 22, 2026.)¹⁴ The Board continues to expect that Applicants and other parties will expeditiously respond to any outstanding requests. In short, the Board views a 90-day comment period as appropriate in this matter regardless of when discovery commenced.

Additionally, the Board will extend and modify certain procedural deadlines proposed in *Decision No. 5*. The Board will extend the deadline for rebuttals in support of responsive applications (including inconsistent applications) by 10 days (plus one

¹² Although Applicants reference Executive Order No. 14,219 as supporting a compressed procedural schedule, the schedule adopted by the Board is in no way inconsistent with Executive Order No. 14,219.

¹³ Comments on the procedural schedule also assert that Applicants had not produced materials responsive to discovery requests. (BNSF Comments 12, Nov. 13, 2025; CN Comments 6, Nov. 13, 2025; *see also* CSXT Comments 7, Nov. 19, 2025; CPKC Comments 15 n.19, Nov. 13, 2025.)

¹⁴ Non-Applicant Railroads are BNSF, CN, CSXT, and CPKC.

¹¹ While NGFA would also extend the deadline for Applicants’ rebuttal, (NGFA Comments 3, Nov. 17, 2025), Joint Associations would move the deadline for Applicants’ rebuttal pursuant to Joint Associations’ request for a sur-reply period, (Joint Ass’n’s Comments, App. 1., Nov. 17, 2025).

additional day to avoid a weekend deadline). Final briefs will be due 60 days after rebuttals in support of responsive applications are due. Before final briefs are due, the Board will hold a public hearing on a date or dates to be determined in a subsequent decision, which will provide details about how to participate in the public hearing. The Board will close the record following the submission of final briefs but may order the submission of additional argument or evidence before doing so. The Board will endeavor to issue its final decision within 90 days of the close of the evidentiary record, provided that the environmental review process is complete.

Descriptions of anticipated responsive applications will be due 20 days after publication of the procedural schedule in the **Federal Register**, which will facilitate the Board's review of any responsive applications. CSXT requests that the Board remove this requirement entirely, arguing that it "would unfairly and unnecessarily rush non-applicants' evaluation of the Application's claimed benefits, merger-related impacts and harms, and proposed conditions to enhance competition." (CSXT Comments 10, Nov. 19, 2025.) The Board is not persuaded by this argument, as the Revised Application and Applicants' supplemental submissions have already been available for some time, and descriptions of anticipated responsive applications need not contain a full evaluation of the proposed transaction.

Other evidentiary deadlines proposed in *Decision No. 5* permit ample time for parties to submit evidence and argument. The Board finds that sur-replies are unnecessary because the

Board's rules give Applicants the final word in any merger proceeding. *Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500 et al., slip op. at 3 (STB served Sept. 13, 2022); *Norfolk S. Ry.—Joint Control & Operating/Pooling Agreements—Pan Am S. LLC*, FD 35147, slip op. at 5 (STB served July 21, 2008). The Board also declines to include pre-hearing briefs at this time, as any necessary pre-hearing filings will be specified in a future decision ordering a public hearing. Following further development of the record, the Board may order parties to submit additional evidence and argument. The full procedural schedule adopted here is set out in the Appendix to this decision.

Notice of Intent to Participate. Any person who wishes to participate in these proceedings as a Party of Record must file with the Board, no later than September 4, 2026, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of Transportation, the Attorney General of the United States, Mr. Rosenthal (representing UP), and Mr. Atkins (representing NS). Parties who have already submitted a notice of intent to participate are not required to resubmit an additional notice.

If a request is made in a notice of intent to participate to have more than one name added to the service list as a Party of Record representing a particular entity, the extra name(s) will be added to the service list as a "Non-Party." Any person designated as a Non-Party will receive copies of Board decisions, orders, and notices but need not be served with copies of filings submitted to the Board.

Deadlines Applicable to Appeals and Replies. Consistent with the Board's practice in prior major merger proceedings of setting certain expedited briefing deadlines, any appeal to a decision issued by the ALJ must be filed within five calendar days of the date of the ALJ's decision; any response to such appeal must be filed within five calendar days of the date of filing of the appeal; and any reply to any motion filed with the Board itself in the first instance must be filed within five calendar days of the date of filing of the motion.

It is ordered:

1. The proceedings, including the environmental review of the Transaction, are removed from abeyance.
2. Applicants shall submit workpapers with unfiltered data on August 28, 2026.
3. Applicants' request for an expedited proceeding regarding their proposed divestiture of TRRA is denied.
4. Parties must comply with the procedural schedule adopted in this decision and shown in the Appendix. The parties must comply with the procedural requirements described in this decision.
5. This decision will be published in the **Federal Register**.
6. This decision is effective on August 18, 2026.

Decided: August 18, 2026.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.

Zantori Dickerson,

Clearance Clerk.

Appendix

Procedural Schedule

April 30, 2026	Revised Application filed.
May 28, 2026	Board accepted Revised Application and the related application. Proceedings held in abeyance.
August 18, 2026	Board decision issuing procedural schedule.
September 4, 2026	Notices of intent to participate in these proceedings due.
September 9, 2026	Descriptions of anticipated responsive, including inconsistent, applications due.
October 5, 2026	Petitions for waiver or clarification with respect to responsive, including inconsistent, applications due.
November 13, 2026	Responsive environmental information and environmental verified statements for responsive, including inconsistent, applications due.
November 18, 2026	Comments, protests, requests for conditions, and any other evidence and argument in opposition to the Revised Application due (except filings from DOJ and USDOT). Responsive, including inconsistent, applications due.
December 3, 2026	Preliminary comments from DOJ and USDOT, if any, due.
December 18, 2026	Notice of acceptance of responsive, including inconsistent, applications, if any, published in the Federal Register .
February 16, 2027	Responses to comments (including those of DOJ and USDOT, if any), protests, requests for conditions, and other opposition due. Rebuttal in support of the Revised Application due. Responses to responsive, including inconsistent, applications due.
March 29, 2027	Rebuttals in support of responsive, including inconsistent, applications due.
TBD	Public hearing.
May 28, 2027	Final briefs due. ¹⁵
TBD	Close of the record.
0–90 days after close of record	Service date of final decision. ¹⁶

[FR Doc. 2026–17024 Filed 8–19–26; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. FAA–2026–4951]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Flight Attendant Fatigue Risk Management Plan**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 18, 2026. The collection involves submission of Fatigue Risk Management Plans (FRMP) for flight attendants of certificate holders operating under Title 14 of the Code of Federal Regulations (CFR) part 121. The certificate holders will submit the information to be collected to the FAA for review and acceptance as required by the FAA Reauthorization Act of 2018.

DATES: Written comments should be submitted by September 21, 2026.**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open

for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:Sandra L. Ray by email at: Sandra.ray@faa.gov; phone: 412–546–7344.**SUPPLEMENTARY INFORMATION:**

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0789.*Title:* Flight Attendant Fatigue Risk Management Plan.*Form Numbers:* None.*Type of Review:* Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 18, 2026 (91 FR 36931). On October 5, 2018, Congress enacted Public Law 115–254, the FAA Reauthorization Act of 2018 (“the Act”). Section 335(b) of the Act required each certificate holder operating under 14 CFR part 121 to submit to the FAA for review and acceptance of a Fatigue Risk Management Plan (FRMP) for each certificate holder’s flight attendants. Section 335(b) contains the required contents of the FRMP, including a rest scheme consistent with current flight time and duty period limitations and development and use of methodology to continually assess the effectiveness of the ability of the plan to improve alertness and mitigate performance errors. Section 335(b) requires that each certificate holder operating under 14 CFR part 121 shall update its FRMP every two years and submit the update to the FAA for review and acceptance. Further, section 335(b) of the Act requires each certificate holder operating under 14 CFR part 121 to comply with its FRMP that is accepted by the FAA.

Respondents: 55 Part 121 Air Carriers and 2 new entrants.*Frequency:* 1 initial submission and then updates every 2 years.*Estimated Average Burden per Response:* 20 Hours for Initial Submission, 5 Hours for Updates.*Estimated Total Annual Burden:* 40 Hours per year for Initial Submission, 275 Hours per year for updates.

Issued in Washington, DC, on August 18, 2026.

Sandra L. Ray,*Aviation Safety Inspector.*

[FR Doc. 2026–16970 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration**

[FTA Docket No. FTA 2026–0265]

Agency Information Collection Activity Under OMB Review: National Transit Database (NTD)**AGENCY:** Federal Transit Administration, Department of Transportation (DOT).**ACTION:** Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before September 21, 2026.**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department’s estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop FTA TAD–10, Washington, DC 20590, (202) 366–0354 or tia.swain@dot.gov.

¹⁵ The Board will determine the page limits for final briefs in a later decision after the record has been more fully developed.

¹⁶ 49 U.S.C. 11325(b)(3) provides that the Board must issue its final decision within 90 days of the close of the evidentiary record. Consistent with *Decision No. 21*, the Board has streamlined the environmental review process with the intent of issuing its final decision within the period prescribed by section 11325(b)(3). However, under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, the Board may not issue a final decision until after the required environmental review is complete. In the event the environmental review process cannot be concluded in sufficient time for the Board to meet the 90-day provision set forth in section 11325(b)(3), the Board will issue a final decision as soon as possible after that process is complete.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 26, 2026 FTA published a 60-day notice (91 FR 14751) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received ten comments after issuing this 60-day notice. The comments were in regard to information collection duration, funding match requirements, and reporting definitions. The FTA has carefully considered all feedback but has determined that no changes to the information collection are warranted at this time. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: National Transit Database (NTD).

OMB Control Number: 2132–0008.

In accordance with the Paperwork Reduction Act (PRA) of 1995, the Federal Transit Administration (FTA) is requesting Office of Management and Budget (OMB) 3-year approval of an extension without change for a currently approved collection. 49 U.S.C. 5335 requires the Secretary of Transportation to maintain a reporting system, using a

uniform system of accounts, to collect financial, operating, geographic service area coverage, and asset condition information from the nation's public transportation systems. Congress created NTD to be the repository of transit data for the nation to support public transportation service planning and FTA established NTD to meet these requirements. FTA continues to seek ways to reduce the burden of NTD reporting. The existing information collection request (ICR) is set to expire on August 31, 2026, this ICR covers the information collection activities associated with proposed changes finalized in July 2025, to include the consolidation of station and facility reporting, security reporting clarification, trip planning and geospatial data, and ensuring a state of good repair. There is no added burden from these changes.

Respondents: State or local governmental entities that operate a public transportation service.

Estimated Annual Number of Respondents: 2,481 respondents.

Estimated Total Annual Burden: 456,179 hours.

Frequency: Annual.

Kusum Dhyani,

Director, Office of Management Planning.

[FR Doc. 2026–17035 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–0500; Notice 1]

Allwin Powersports Corp., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Allwin Powersports Corp. (Allwin) has determined that certain LS2 Rapid II Helmets do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets*. Allwin filed a noncompliance report dated November 10, 2025, and subsequently petitioned NHTSA (the “Agency”) on November 21, 2025, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Allwin’s petition.

DATES: Send comments on or before September 21, 2026.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the dockets. The docket ID number for this

petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT:

Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview: Allwin determined that certain LS2 Rapid II Helmets do not fully comply with paragraph S5.2 of FMVSS No. 218, *Motorcycle Helmets* (49 CFR 571.218).

Allwin filed a noncompliance report dated November 10, 2025, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Allwin petitioned NHTSA on November 25, 2025, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Allwin's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Equipment Involved:

Approximately 6,607 LS2 Rapid II Helmets, manufactured between July 17, 2023, and June 30, 2025, were reported by the manufacturer.

III. Rule Requirements: Paragraph S5.2 of FMVSS No. 218 includes the requirements relevant to this petition. The standard requires that when a helmet is subjected to the conditioning procedure specified in paragraph S7.2, the penetration test striker must not contact the surface of the test headform.

IV. Noncompliance: Allwin explains that the subject helmet does not comply with penetration requirements in ambient, low temperature, and high temperature conditions on the left rear location.

V. Summary of Allwin's Petition: The following views and arguments presented in this section, "V. Summary of Allwin's Petition," are the views and arguments provided by Allwin. They have not been evaluated by the Agency and do not reflect the views of the Agency. Allwin describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Allwin states that the subject helmets were tested for compliance with DOT

standards nine times between their internal testing and ACT Labs contract tests and found to be compliant in all testing locations, including the left rear side. However, recent testing by Southwest Research at the request of NHTSA, found that the left rear side of the helmet did not comply with penetration standards. Allwin states that it has ceased all sales and discontinued the subject helmets.

Allwin asserts that the risk of penetration by foreign objects during a motorcycle accident are "extremely low" and presents findings from various studies to support this claim.

Allwin states that certain European helmet standards (ECE 22.05 and Snell M2025D) do not require a penetration test because of the low risk of penetration in a real-world scenario and the required weight and thickness helmets would need to comply with a penetration test.

Allwin notes the views of David R. Thom, (an expert witness, consultant, and all-around expert in the field of helmet safety and collision and injury dynamics) that the helmet penetration test is unnecessary because of the low probability of this type of injury occurring during a motorcycle accident.

Allwin concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment that Allwin no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment under their control after Allwin notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2026–16983 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Transportation Statistics Bureau

[Docket No. RITA–2026–0001]

Notice of Request for Clearance of a New Information Collection: Intermodal Freight Facilities Air-to-Truck and Mail Cargo Geospatial Data Update

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology (OST–R), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of BTS to request approval by the Office of Management and Budget (OMB) for the bureau to update the geospatial "Intermodal Freight Facilities Air-to-Truck" dataset for the legislatively mandated National Transportation Atlas Database (NTAD). This data collection will reach out to airport industry experts at 113 major U.S. airports (which collectively handled about 98 percent of U.S. air freight in 2024) to verify the location of intermodal facilities, mail transfer facilities, and the physical and operational characteristics of these facilities within respective airport boundaries. The updated information will be published on the NTAD: <https://geodata.bts.gov/>.

DATES: Comments must be submitted on or before October 19, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number RITA–2026–0001 to the U.S. Department of Transportation (DOT), Docket Operations (DO). You may submit your comments by mail or in person to the Docket Clerk, Docket No. RITA–2026–0001, U.S. Department of Transportation, Docket Operations, 1200 New Jersey Ave. SE, West Building 5th Floor W58–213, Washington, DC 20590. Comments should identify the docket number as indicated above. The DO is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. To receive confirmation of receipt of written comments, please

include a self-addressed, stamped postcard with the following statement: "Comments on Docket RITA-2026-0001." The Docket Clerk will date stamp the postcard and return it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend using an alternative method (the internet, fax, or professional delivery service) to submit comments to the docket and ensure their timely receipt at U.S. DOT. You may fax your comments to the DO at (202) 493-2251. Comments can also be viewed and/or submitted via the Federal Rulemaking Portal: <http://www.regulations.gov>.

Please note that anyone can electronically search all comments received into our docket management system by name of the submitter (or comment signer if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19475-19570), or you may review the Privacy Act Statement at <https://www.gpo.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Dominic Menegus, (202) 306-1587, NTAD Program Manager, BTS, OST-R, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Intermodal Freight Facilities Air-to-Truck and Mail Cargo Geospatial Data Update.

Background: The National Transportation Atlas Database (NTAD) is a legislatively mandated program (49 U.S.C. 6309) managed by the Bureau of Transportation Statistics (BTS). BTS maintains geodatabases that depict transportation networks; flows of people, goods, and vehicles over the transportation networks; and social, economic, and environmental conditions that affect or are affected by those networks. These geodatabases also support intermodal network analysis. In addition, 49 U.S.C. 6303(b)(3) mandates

BTS to establish and maintain an Intermodal Transportation Database that includes information on the location and connectivity of transportation facilities and services. As a result, the "Intermodal Freight Facilities Air-to-Truck" dataset is a critical component of these BTS mandates. BTS created a dedicated air-to-truck intermodal dataset for the top 60 freight airports in 2018, which was finalized in early 2019 using various publicly available resources. BTS analysts reviewed airports' websites for master plans or layout maps to ascertain the presence of intermodal freight terminals and then used satellite imagery and Google Maps and Street View to estimate the center point of these facilities while also compiling physical and operational attributes for the facilities.

BTS is currently updating this dataset by better embracing stakeholder communication in response to the GAO-25-107334 report, which outlined concerns about the reliability and limitations of air cargo infrastructure and operations data.

Additionally, as part of this update, BTS seeks to expand its data collection to include 113 freight airports, which collectively accounted for approximately 98 percent of all freight movement in 2024. This expansion will provide more complete coverage of these intermodal facilities and directly support BTS's statutory mandates under:

- (1) 49 U.S.C. 6302(b)(3)(B)(vi)(III): To document the extent, connectivity, and condition of the transportation system, building upon the National Transportation Atlas Database developed under section 6309; and
- (2) 49 U.S.C. 6302(b)(3)(B)(vii): To compile intermodal geospatial data and collect unique geospatial data not currently captured by other entities.

This new approach will supplement BTS' previous efforts by enabling the bureau to reach out directly to airport industry experts, having them complete a two-part web-based mapping application:

- (1) *Survey:* A questionnaire focused on the physical and operational

characteristics and current status of intermodal air-to truck freight facilities, and

- (2) *Interactive Map:* A review of preliminary facility locations that respondents can verify by approving or rejecting mapped facilities.

This process will ensure that BTS's findings are consistent and validated by those with expert knowledge of the current conditions of intermodal air-to-truck facilities around the United States.

Respondents: The target population will be airport industry expert(s) at each of the 113 U.S. airports that collectively moved about 98 percent of U.S. freight in 2024.

Estimated Average Burden per Response: The burden per respondent is estimated to average 30 minutes. This average is the estimated time needed to complete the survey questions and access a web-based mapping application to verify the locations of intermodal facilities on airport property.

Estimated Total Annual Burden: The total annual burden (in the period that the survey is conducted) is estimated to be 56.5 hours (3,390 minutes), *i.e.*, 30 minutes per respondent for 113 respondents.

Frequency: This is a single occurrence to update the Intermodal Freight Air-to-Truck dataset.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to:

- (1) the necessity and utility of the information collection for the proper performance of the functions of the DOT;
- (2) the accuracy of the estimated burden;
- (3) ways to enhance the quality, utility, clarity and content of the collected information; and
- (4) ways to minimize the collection burden without reducing the quality of the collected information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Authority: 49 U.S.C. Ch. 63
§ 6302(b)(3)(B)(vi) (XI) intermodal and
multimodal freight movement; and
§ 6303(c)(1) information on the volumes
and patterns of movement of goods,
including local, interregional, and

international movement, by all modes of
transportation, intermodal
combinations, and relevant
classification and (3) information on the
location and connectivity of

transportation facilities and services;
and § 6309.

Dominic Menegus,

*Acting Director, Office of Spatial Analysis
and Visualization, Bureau of Transportation
Statistics, Office of the Assistant Secretary
for Research and Technology.*

[FR Doc. 2026–17000 Filed 8–19–26; 8:45 am]

BILLING CODE 4910–9X–P



FEDERAL REGISTER

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Part II

Department of Education

34 CFR Parts 600, 602, and 668

Accreditation, Innovation, and Modernization: The Secretary's Recognition of Accrediting Agencies: Institutional Eligibility Under the Higher Education Act of 1965, as Amended, Student Assistance General Provisions; Proposed Rule

DEPARTMENT OF EDUCATION**34 CFR Parts 600, 602, and 668****[Docket ID ED–2025–OPE–1042]****RIN 1840–AD82****Accreditation, Innovation, and Modernization: The Secretary's Recognition of Accrediting Agencies: Institutional Eligibility Under the Higher Education Act of 1965, as Amended, Student Assistance General Provisions****AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: The Department proposes to revise the existing accrediting agency recognition regulations at 34 CFR part 602 to implement the directives set forth in Executive Order 14279, Reforming Accreditation to Strengthen Higher Education, and other Administration priorities, align the regulations more closely with statute, and reduce regulatory burden.

DATES: We must receive your comments on or before September 21, 2026.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov). The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comment only once. Additionally, please include the Docket ID at the top of your comments. Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the rule is available at [regulations.gov](https://www.regulations.gov).

Information on using *Regulations.gov*, including instructions for submitting comments, is available on the site under “FAQ.” If you require an accommodation or cannot otherwise submit your comments via *Regulations.gov*, please contact regulationshelpdesk@gsa.gov or by phone at 1–866–498–2945. If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking website at www.regulations.gov. Therefore, commenters should include in their comments only information that they wish to make publicly available.

Additionally, commenters should not include in their comments any personally identifiable information (PII) about other individuals. For example, if your comment describes an experience of someone other than yourself, please do not identify that individual or include any personal information that identifies that individual. The Department reserves the right to redact a portion of a comment or the entire comment at any time if PII about other individuals is included.

FOR FURTHER INFORMATION CONTACT:

Aaron Washington, Office of Postsecondary Education, 400 Maryland Ave. SW, Washington, DC 20202. Telephone: 202–987–0911. Email: aaron.washington@ed.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

The Secretary of Education recognizes accrediting agencies currently under existing regulations at 34 CFR part 602. Accrediting agencies serve as key gatekeepers in determining which institutions may participate in the Federal student aid programs, which currently provide more than \$100 billion in Pell Grants and Federal student loans annually. Unfortunately, while the existing regulations are intended to ensure that the accrediting agencies recognized by the Secretary are “reliable authorities regarding the quality of education or training offered by the institutions or programs they accredit,” many are failing to do so and recognize institutions and programs that fail some of the most important indicia of quality and returns on investment, hurting students and taxpayers. Amidst this decline in student outcomes, some accrediting agencies have neglected their positions of public trust, improperly shifting their focus away from student achievement to compelling institutions to adopt illegal and discriminatory ideology and practices, and intruding on State and local authority over public institutions. All of this has been done under the guise of establishing and applying accreditation standards on institutions and programs.

As a result, Americans' trust and confidence in the U.S. higher education system has declined significantly over the last decade. Americans deserve and demand better. To that end, and to ensure that accrediting agencies are taking their responsibilities as quality indicators seriously, the Department is therefore proposing a comprehensive modernization of the regulations for recognition of accrediting agencies, one that focuses on student achievement and providing a high-quality education.

The proposed regulations would break down barriers that have long held back institutions from adopting innovative and cost-effective educational models. The proposed regulations would eliminate requirements not required by statute, including the “two-year rule” for initial recognition of new agencies, prescriptive site visit mandates, unnecessary documentation requirements, and rigid and overly long processing timelines. These commonsense reforms would also remove existing regulatory barriers impeding institutions' ability to change or work with multiple accrediting agencies, while agencies would have more flexibility to apply certain standards that meet the needs of their accredited institutions and programs. The Department also proposes a new review framework for better oversight of recognized accrediting agencies that serve as the primary gatekeepers for the Federal student aid programs, and whose potential failures pose the greatest risk to taxpayers.

Additionally, in order to reduce administrative costs that are negatively impacting college affordability, the Department is proposing to require recognized accrediting agencies to apply their standards in ways that minimize institutional administrative burden, avoid duplicative reporting, and support the implementation of lower-cost educational models. These changes would also shift institutions' and programs' focus towards cost-effective practices for staffing, facilities, student services, and program design.

The proposed regulations promote greater integrity in decision making by recognized accrediting agencies and eliminate previous regulatory exceptions for resource-sharing and other areas of potential conflicts of interest. The proposed regulations would also take the final step to eliminating geographic-scope distinctions and make other anticompetitive behavior a negative factor in consideration of agency recognition.

The Department proposes to reinforce the existing legal, constitutional, civil rights, and consumer protection obligations already required of recognized accrediting agencies and the institutions and programs that they accredit. Accrediting agencies recognized by the Secretary would be required to confirm that institutions and programs they accredit comply with all Federal and State laws and would prevent recognized accrediting agencies from applying standards that direct accredited institutions and programs to

violate those laws. New student outcome and program-level performance expectations would focus accrediting agencies on important objective measures of student and institution performance such as completion, licensure pass rates, and economic returns.

Further, the proposed regulations also address persistent issues with transfer of credit policies, ensuring that students are not required to undertake duplicative coursework when not necessary. While institutions and programs would have the latitude to deny a transfer of credit based on the credit failing to meet the institutions' standards, schools would have to provide written reasoning for the denial. These regulations also propose to require more transparency before a student enrolls, so he or she can have a full understanding of the scope, and cost, of the education.

Taken together, these proposed regulations aim to improve educational quality, protect students and taxpayers, and promote a higher education accreditation system that supports innovation, accountability, and legal compliance.

II. Summary of the Major Provisions of This Regulatory Action

The proposed regulations would:

Part 600—Institutional Eligibility Under the Higher Education Act of 1965, as Amended

Subpart A—General

- Amend § 600.11 to make it less burdensome for institutions that are changing accrediting agencies or wish to utilize more than one accrediting agency.
- Amend § 602.2 to require the Department provide public notice on its accreditation website if the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency's recognition before the end of its recognition period.
- Amend § 602.3 to define and use the term “institution” in these regulations instead of “institution of higher education” which is defined in the HEA, and elsewhere in the Department's regulations, and refers to a narrower subset of institutions, and to add a definition for “related, associated, or affiliated trade association.”

Subpart B—The Criteria for Recognition

- Amend § 602.10 to clarify the Secretary's recognition extends only to those accrediting agencies whose institutions or programs actively participate in a Federal program.

- Amend § 602.11 to require accrediting agencies to clearly describe the scope of their accrediting activities and remove geographic restrictions that restrict institutions and programs from choosing an accrediting agency.

• Amend § 602.12 to remove references to geographic areas and geographic constraints and require review of contractions of scope. Additionally, amends the regulations to clarify the policies and capacity an accrediting agency must have to seek initial recognition, and eliminates the “two-year rule” for initial recognition due to lack of statutory requirement.

- Unreserve and amend § 602.13 to specify that an accrediting agency's recognition by the Department does not provide any immunity from antitrust laws.

• Amend § 602.14 to strengthen the fiscal and administrative criteria an accrediting agency must meet to prove it is fully separate and independent from any related, associated, or affiliated trade or membership organization.

- Amend § 602.15 to require accrediting agencies to administer their standards, policies, and procedures in a manner that minimizes unnecessary compliance costs and administrative burdens on accredited institutions, as well as requires agencies to maintain appropriate conflict of interest controls and policies.

• Amend § 602.16 to codify that an agency may establish additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate.

- Amend § 602.17 to clarify expectations for reviewing student achievement and faculty related policies, including academic freedom and intellectual diversity. There are also new requirements for cost-benefit analysis, institutional flexibility and mission, program length review, and safeguards against misrepresentation.

• Amend § 602.18 to require accrediting agency decisions to be neutral with respect to viewpoint and ideology, except for those with a religious mission.

- Amend § 602.20 to provide guidance to accrediting agencies on how to structure their arbitration procedures and remove overly prescriptive requirements.

• Amend § 602.21 to remove overly prescriptive requirements.

• Amend § 602.22 to refine the list of changes requiring accreditor approval, add prison education programs as a defined substantive change, and remove

outdated and overly prescriptive requirements.

- Amend § 602.23 to require accrediting agencies to ensure institutions comply with all applicable Federal and State laws and remove overly prescriptive requirements.

• Amend § 602.24 to strengthen accrediting agencies' oversight of institutional changes, expand requirements for teach-out planning, including transcript access, and increase transparency and support for students when institutions face disruptions. These regulations would also establish clearer, fairer rules by defining consistent criteria, prohibiting discriminatory denials, requiring acceptance of comparable credits, and providing students with an appeals process.

- Amend § 602.25 to remove overly prescriptive requirements.

• Amend § 602.26 to update and modernize the required content of agency notices and better align these requirements with contemporary methods of disclosure and allow temporary continuation of eligibility for title IV, HEA funds after erroneous decisions on the part of the accrediting agency.

- Amend § 602.27 to require the Department's website to be updated on a regular, timely basis to display the current accreditation status of all institutions and programs.

• Amend § 602.28 to broaden the circumstances under which an accrediting agency must re-evaluate an institution or program following negative actions by other authorities.

• Amend § 602.30 to modernize how accrediting agencies submit applications and reports to the Department.

Subpart C—The Recognition Process

- Amend § 602.32 and split it into two sections: § 602.31 and § 602.32.

• Amend § 602.31 to modernize and streamline the procedures accrediting agencies must follow when submitting applications for initial or renewed recognition.

- Amend § 602.32 to modernize and clarify the processes used to review an accrediting agency's expansions or contractions of scope, compliance reports, and increases in headcount enrollment.

• Amend § 602.33 to modernize and streamline the procedures for review of agencies during the period of recognition, including the review of monitoring reports.

- Amend § 602.34 to require the National Advisory Committee on Institutional Quality and Integrity (NACIQI) to review applications for

contractions of scope, and for accrediting agencies to post public notice of upcoming NACIQI reviews.

- Amend §§ 602.35, 602.36, and 602.37 to update cross references.

Part 668—Student Assistance General Provisions

Subpart D—Institutional and Financial Assistance Information for Students

- Amend § 668.43 to require transfer of credit disclosures and direct written notice to students.

Cost and Benefits

As further detailed in the Regulatory Impact Analysis (RIA), the proposed regulations include numerous provisions that may impact students, institutions of higher education, accrediting agencies, and the Federal government. The proposed regulations include provisions related to transfer-of-credit policies, which may benefit students by making it easier for students to transfer credits to continue their postsecondary enrollment at a new institution. Students will benefit from these proposed changes because they will likely spend less time and money retaking courses that failed to transfer, whereas institutions may experience costs from these provisions due to the lower levels of tuition revenue they may receive from transfer students. The proposed regulation also encourages accrediting agencies to include new criteria that evaluates program and institutional outcomes. This may impose new costs on accreditors, who may need to develop such criteria, and on institutions, who may need to implement changes to meet such criteria. Furthermore, the proposed regulations will remove several barriers for new accrediting agencies to emerge and obtain Department recognition, which may ultimately benefit accrediting agencies through the reduction in administrative burden to gain initial recognition and maintain recognition. Additionally, the proposed rule would also require accrediting agencies to adopt several new policies and procedures that aim to increase college affordability and innovation, while also putting downward pressure on credential inflation. Students may benefit from these provisions if the changes result in more affordable and flexible educational opportunities.

As noted in the RIA, the Department does not estimate a significant net budget impact on the title IV, HEA federal student aid programs from the proposed regulations. In prior regulations¹ the Department estimated

the accreditation reform would result in volume increases from easier recognition of new accreditors or agencies with an expanded scope to new credential levels, and the option for alternative standards to allow for faster introduction of innovative programs. In 2019, we did not estimate a significant change in repayment performance as institutions with less favorable program outcomes could find more lenient accrediting agencies or institutions with strong programs could take advantage of the flexibility allowed by the substantive change policy revisions to expand their program offerings. At the time we noted the uncertainty of the extent to which increasing accreditation options and encouraging program innovation would shift loan and grant volume among more options for students versus generating new volume and that uncertainty remains.

Additionally, greater acceptance of transfer credits may increase volumes by encouraging some students to complete degrees but also may reduce volumes by credits being recognized by the institutions receiving transfers. In retrospect, we know the number of institutions that changed accreditors was fairly low and it is difficult to attribute particular changes in volume to accreditation reforms given other economic, demographic, and programmatic developments during the same period. The Department seeks feedback on the reasonability of the estimate that the proposed regulations will not have a significant net budget impact and sources of data or analysis for further consideration of this question as we prepare the final regulations.

III. Directed Questions

§ 602.15—Administrative and Fiscal Responsibilities

Under § 602.15(e), the Department proposes to require an accrediting agency have clear and effective controls to: (1) prevent conflicts of interest, (2) ensure that members of the standards-setting body are prevented from voting as members of the decision-making body, (3) determine its dues without review from a related, associated, or affiliated trade association or professional organization, (4) disallow shared resources, (5) ensure that the accrediting agency does not share or solicit feedback from an associated or affiliated trade association or professional association, (6) disclose on its website any relationship with related, associated, or affiliated trade associations or professional organizations and, (7) not act to restrict

access to employment in a profession, occupation or vocation.

The Department seeks feedback about the extent to which the “conflict of interest” requirements impact accrediting agencies in relation to 401K, health insurance, and other areas. We understand that there may be some agencies who utilize the same resources in these certain areas, and that there may be some consideration to the amount of time and resources it would take to unwind the sharing of resources in such instances. We welcome comments from agencies that have current relationships exist between themselves and the related, associated, or affiliated trade association or professional association that would be affected by the amendments to the regulations proposed here. Specifically, the Department requests information that considers the length of time it would take to unwind these benefits from a related, associated, or affiliated association.

Regulatory Impact Analysis—Data Constraints

The Department recognizes that there is limited data available to estimate the proposed regulation’s potential impact on accrediting agencies, institutions of higher education, and students. Due to the scarcity of existing information, the Department invites public feedback on possible methods and data sources that could strengthen the analysis presented in the RIA. Additionally, the Department welcomes input regarding prior research on accreditation reform, especially insights on how findings from such research might further inform and support the analysis included in the RIA. The Department is particularly interested in research findings on the way that accreditation reform is associated with accreditor innovation, competition, and quality, along with any associations that reform has on student behavior and outcomes. Additionally, the Department is also interested in receiving comments regarding possible impacts not identified by the Department, along with supporting data and analysis.

IV. Invitation To Comment

We invite you to submit comments regarding these proposed regulations. For your comments to have maximum effect in developing the final regulations, we urge you to clearly identify the specific section or sections of the proposed regulations that each of your comments address and to arrange your comments in the same order as the proposed regulations. The Department

¹ 84 CFR 58834.

will not accept comments submitted after the comment period closes.

The following tips are meant to help you prepare your comments:

- Be concise but support your claims.
- Explain your views as clearly as possible and avoid using profanity.
- Refer to specific sections and subsections of the proposed regulations throughout your comments, particularly in any headings that are used to organize your submission.
- Explain why you agree or disagree with the proposed regulatory text and support these reasons with data-driven evidence, including the depth and breadth of your personal or professional experiences.
- Where you disagree with the proposed regulatory text, suggest alternatives, including regulatory language, and your rationale for the alternative suggestion.
- Submit your public comment only.
- Do not include personally identifiable information (PII) such as Social Security numbers or loan account numbers for yourself or for others in your submission.
- Do not include any information that directly identifies or could identify other individuals or that permits readers to identify other individuals.

Mass Writing Campaigns: In instances where individual submissions appear to be duplicates or near duplicates of comments prepared as part of a writing campaign, the Department will post one representative sample comment along with the total comment count for that campaign to *Regulations.gov*. The Department will consider these comments along with all other comments received.

In instances where individual submissions are bundled together (submitted as a single document or packaged together), the Department will post all of the substantive comments included in the submissions along with the total comment count for that document or package to *Regulations.gov*. A well-supported comment is often more informative to the agency than multiple form letters.

Public Comments: The Department invites you to submit comments on all aspects of the proposed regulatory language specified in this NPRM, and in the Regulatory Impact Analysis and Paperwork Reduction Act sections.

The Department may, at its discretion, decide not to post or to withdraw certain comments and other materials that contain promotion of commercial services or products, and spam.

We may not address comments outside of the scope of these proposed regulations in the final rule. Comments

that are outside of the scope of these proposed regulations are comments that do not discuss the content or impact of the proposed regulations or the Department's evidence or reasons for the proposed regulations.

Comments that are submitted after the comment period closes will not be posted to *Regulations.gov* or addressed in the final rule.

We invite you to assist us in complying with the requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities. During and after the comment period, you may inspect public comments about these proposed regulations by accessing *Regulations.gov*.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the Information Technology Accessibility Program Help Desk at *ITAPSupport@ed.gov* to help facilitate this request.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make the regulation easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 668.2 General definitions.)
- Could the description of the proposed regulations in the

SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulation easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

V. Background

Section 496 of the Higher Education Act (HEA), as amended, requires the Secretary of Education (Secretary) to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of participation in programs authorized under the HEA and other Federal programs, on the quality of education or training offered by the institutions and programs that they accredit. Such criteria are required to include appropriate measures of student achievement.

Consistent with the statute, the Secretary has established regulations for recognition of accrediting agencies at 34 CFR part 602 and has revised these regulations periodically.

Executive Order (E.O.) 14279, titled "Reforming Accreditation to Strengthen Higher Education," issued on April 23, 2025, by President Trump, directs the Secretary to take several actions related to the recognition of accrediting agencies or associations by the Department. Some of these actions require changes to existing regulations.

The goal of these regulatory changes is to realign the Secretary's criteria for recognition of accrediting agencies to promote high-quality, high value, and affordable education for students that—

- Promotes such academic programs and activities at higher education institutions that are focused on student outcomes and are free from unlawful discrimination and other violations of Federal law;
- Reduces barriers that limit competition, innovation, and new education models that advance credential and degree completion;
- Holds institutions accountable for discrimination and other unlawful acts; and
- Advances academic freedom, intellectual inquiry, and student learning by ensuring that accreditation requires that institutions support and prioritize intellectual diversity among faculty.

Specifically, the Executive Order directs the Secretary to—

- Resume recognition of new accrediting agencies to foster competition and expand institutional options; and
- Mandate that accrediting agencies require member institutions to use data on program-level student outcomes to improve such outcomes, without reference to race, ethnicity, or sex.

The Department undertook this rulemaking in part to address the goals contained within the Executive Order, but also to propose substantive changes that would reform the static and outdated higher education accountability system. These regulations are intended to increase competition among accrediting agencies by reducing barriers to entry, facilitating institutional mobility among recognized agencies, and reducing regulatory requirements that may unnecessarily discourage the formation of innovative accrediting organizations. Increased competition is expected to improve institutional responsiveness, reduce accreditation costs over time, and encourage greater innovation in the market for quality assurance validation.

The Department believes that increasing competition among recognized accrediting agencies is likely to improve the quality, responsiveness, and effectiveness of accreditation. Accreditation has historically seen very little competition because it evolved from voluntary membership peer review groups to set uniform academic standards within those groups. Institutional accreditors (including former “regional” accreditors) rarely engage in head-to-head competition, institutions face difficulty in changing accrediting agencies due to high switching costs and potential risks in maintaining eligibility for Federal student aid for their students, and there are regulatory barriers to the recognition of new agencies. During negotiated rulemaking, the Department explained that competition among accreditors is expected to generally improve quality and expand choices for institutions.

Competition creates incentives for agencies to innovate, respond to workforce changes, expand choices for institutions among agencies engaged in various types of innovative activities and to develop new measures for assessing student success by institutions.

As explained by a Department economist during negotiated rulemaking, there is a high concentration of institutions that are accredited by a handful of institutional accrediting agencies. The Department recognizes that empirical evidence measuring the causal effect of

institutions changing accreditors is limited. Because institutions rarely switch accreditors, and those that do may differ systematically from those that do not, it is difficult to isolate the independent effect of changing accreditors on institutional outcomes. Moreover, previous regulatory barriers have resulted in too few accreditor switches to permit rigorous statistical analysis. The absence of such evidence, however, does not undermine the broader economic evidence concerning the benefits of competition in quality assurance markets.

Economic research has consistently found that competition encourages innovation and improved performance. Joseph Schumpeter argued that competition produces “creative destruction” that drives innovation by creating new markets that render older ones obsolete, while more recent empirical work has found that introducing competition into concentrated markets substantially increases innovation. The Department believes these findings are relevant because higher education accreditation has historically exhibited many characteristics of an uncompetitive market.

Competition is also expected to improve the informational value of accreditation. During negotiated rulemaking, the Department explained that institutions seek credible signals of educational quality, and that in a competitive accreditation market, agencies would compete to provide those signals. Rather than offering only a binary “approved/not approved” determination, competing accreditors may distinguish themselves by offering scaled ratings for institutional quality. On April 14, 2026, during opening remarks for negotiated rulemaking, the Department stated:

“Competition will include competition for relevance and universities will signal their quality level through accreditation . . . Current accreditors give universities and colleges pass-fail grades which provide very little useful information.”²

This reasoning is consistent with the economic literature on certification intermediaries. In “Information Revelation and Certification Intermediaries”, Alessandro Lizzeri³

demonstrates that monopolistic certifiers have incentives to reveal only limited information, whereas competition among certifiers results in more informative quality signals. Similarly, in “The Effect of Information on Product Quality: Evidence from Restaurant Hygiene Grade Cards” Giner Zhe Jin and Phillip Leslie⁴ found that more detailed quality information improves quality outcomes.

The Department also believes that competition can strengthen, rather than weaken, Federal oversight. During negotiated rulemaking, the Department explained that where only one recognized accreditor effectively serves a sector, withdrawal of recognition may significantly disrupt institutions and students making it more difficult to impose such a penalty. By contrast, when multiple recognized accreditors are available, institutions have viable alternatives, reducing barriers to enforcement. As the Department stated during negotiated rulemaking:

“With regional and programmatic monopolies, withdrawal of recognition can throw industries into chaos . . . If alternatives are available, if competition exists, any hesitation to derecognize agencies disappears.” The Department believes competition will increase accountability both for institutions and for accrediting agencies themselves.

Finally, the Department believes that competition will encourage innovation in accreditation. Accrediting agencies that face meaningful competition will have stronger incentives to develop new approaches to quality assurance, reduce unnecessary costs, respond to institutional diversity, and improve services to institutions and students. As explained in the Department’s written responses during negotiated rulemaking, barriers to switching generally reduce competition and increase market power through a lock-in effect. Eliminating or reducing those barriers promotes innovation and responsiveness.

For these reasons, the Department finds that reducing unnecessary barriers to competition among qualified accrediting agencies is likely to improve accreditation over time while preserving the Department’s responsibility to establish minimum standards for Federal recognition. The Department does not believe competition will cause a “race to the bottom.” Rather, quite the opposite will likely occur. Recognized accrediting agencies must continue to satisfy all statutory and regulatory

² Opening Remarks—David Barker—Assistant Secretary for the Office of Postsecondary Education—<https://www.ed.gov/media/document/2026-negotiated-rulemaking-aim-transcripts-day-2-am-113991.pdf>.

³ “Information Revelation and Certification Intermediaries.” The RAND Journal of Economics 30, no. 2 (1999): 214–31. <https://doi.org/10.2307/2556078>.

⁴ Giner Zhe Jin, Phillip Leslie, “The Effect of Information on Product Quality: Evidence from Restaurant Hygiene Grade Cards.” The Quarterly Journal of Economics 118, no. 2, (2003): 409–451. <https://doi.org/10.1162/003355303321675428>.

recognition requirements, while competing to provide higher quality, more informative, and more innovative quality assurance services. As stated during negotiated rulemaking, “We shouldn’t fear healthy competition. It is the basis of a free market economy, and we need more of it in the coddled, protected business of higher education.”

VI. Authority for This Regulatory Action

The authority for this rulemaking is Section 496 of the HEA. Section 496(a) of the HEA provides criteria that an accrediting agency must meet for the Secretary to recognize it as a reliable authority as to the quality of education or training offered. The same section states that the Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations.

Section 496(o) of the HEA directs the Secretary to establish, through regulation, procedures governing the recognition of accrediting agencies and the appeal of recognition decisions. At the same time, Congress provided that the Secretary shall not promulgate regulations with respect to the standards of an accrediting agency described in Section 496(a)(5). The Department interprets these provisions together to mean that the Secretary may establish recognition criteria governing whether an accrediting agency functions as a reliable authority under Section 496, while leaving to accrediting agencies the responsibility for developing and applying their own substantive accreditation standards. Accordingly, these proposed regulations establish the criteria the Secretary will use in determining whether an accrediting agency qualifies for Federal recognition. Except where expressly required by statute, the proposed regulations do not prescribe the substantive content of institutional accreditation standards, but instead establish minimum expectations regarding the processes, consistency, transparency, and lawful administration of those standards.

The Department has also reviewed existing regulations in light of section 496(o). Where current regulations prescribe requirements that extend beyond recognition procedures and instead direct the content or administration of accrediting standards without a clear statutory basis, the Department proposes to remove or simplify those requirements to better align the regulations with congressional direction.

VII. Public Participation

Section 492 of the HEA, 20 U.S.C. 1098a, requires the Secretary to obtain public involvement in the development of proposed regulations affecting programs authorized by the title IV, HEA programs. Prior to developing this NPRM, the Department obtained advice and recommendations from individuals and representatives of groups involved in the title IV, HEA programs. This outreach included a 30-day public comment period, one day of public hearings, and five days of in-person negotiated rulemaking on these proposed regulations at the Department’s headquarters in Washington, DC. Further details regarding these efforts are provided below.

On April 4, 2025, the Department published in the **Federal Register** (90 FR 14741) a notice of our intent to hold public hearings and to establish negotiated rulemaking committees to consider regulatory changes to the title IV, HEA programs, with one committee addressing topics that would streamline current federal student financial assistance program regulations while maintaining or improving program integrity and institutional quality. The engagement included a 30-day written public comment period, two public hearings on April 29 and May 1, 2025, and nine days of negotiated rulemaking specific to this NPRM.

Public Comments and Hearings

We received written comments in response to the **Federal Register** notice. Additionally, we held two public hearings on April 29 and May 1, 2025.

You may view the written comments submitted in response to the April 4, 2025 “Intent to Establish Negotiated Rulemaking Committees; Correction” correction notice (90 FR 14741), by visiting the Federal eRulemaking Portal at [Regulations.gov](https://www.federalregister.gov), within docket ID ED–2025–OPE–0016. Instructions for finding comments are also available on the site under “FAQ.”

Transcripts of the public hearings can be accessed at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026>.

Negotiated Rulemaking

After obtaining extensive advice and recommendations from the public, the Secretary, as required by Section 492 of the HEA, 20 U.S.C. 1098a, prepared draft regulations and submitted them to a negotiated rulemaking process.

On January 27, 2026, we published a notice in the **Federal Register** (91 FR

3403).⁵ That notice set forth a schedule for committee meetings and requested nominations for individual negotiators to serve on the Accreditation, Innovation, and Modernization (AIM) Committee.

We chose members of the negotiated rulemaking committee from individuals nominated by groups involved in the title IV, HEA programs. We selected individuals with demonstrated expertise or experience with the proposed topics. The negotiated rulemaking committee included the following members, representing their respective constituencies:

- *Students, student loan borrowers, or groups representing them:* Magnus Noble, University of Illinois Springfield, and Ryan Hofer (alternate), Independent Advocate for Student Borrowers.
- *Veterans and U.S. military service members, or groups representing them:* Julie Howell, Paralyzed Veterans of America, and Colonel Stuart B. Helgeson (alternate), Valley Forge Military College.
- *Organizations representing workforce development needs, professional associations or employers:* Dr. Siri Terjesen, Florida Atlantic University.
- *Legal assistance organizations, consumer advocates, and civil rights organizations that represent students or borrowers:* Rabbi A.D. Motzen, Agudath Israel of America.
- *Public Institutions of Higher Education, including community colleges, Historically Black Colleges and Universities, and Tribally Controlled Colleges and Universities:* Monty Sullivan, Louisiana Community and Technical College System (Ret.), and Luciano DeCastro (alternate), University of Iowa.
- *Private Nonprofit Institutions of Higher Education, including institutions with a religious mission, Historically Black Colleges and Universities, and Tribally Controlled Colleges and Universities:* David Eubanks, Furman University, William L. Hathaway (alternate), Regent University.
- *Proprietary Institutions of Higher Education, as defined in 34 CFR 600.5:* Jeffrey Bodimer, Post University, and David Cohen (alternate), Five Towns College.
- *State officials, including Governors, State higher education executive officers, State authorizing agencies and State attorneys general:* Raymond Rodrigues, State University System of

⁵ Intent To Establish Negotiated Rulemaking Committee (91 FR 3403)—<https://www.federalregister.gov/documents/2026/01/27/2026-01620/intent-to-establish-negotiated-rulemaking-committee>.

Florida, and Michael Duffey (alternate), Ohio Department of Higher Education.

- *Institutional accrediting agencies recognized by the Secretary under 34 CFR part 602*: Michale S. McComis, Accrediting Commission of Career Schools and Colleges, and Heather F. Perfetti (alternate), Middle States Commission on Higher Education.

- *Programmatic accrediting agencies recognized by the Secretary under 34 CFR part 602*: Rebecca A. Busacca, National Accreditation Commission, and Brian Kessler (alternate), Meritus School of Osteopathic Medicine.

- *Organizations representing taxpayers and the public interest* Primary: Michael Shires, America First Policy Institute, and Jim Blew (alternate), Defense of Freedom Institute.

- *Nascent accreditation organizations not currently recognized by the Secretary under 34 CFR part 602, and third-party organizations that measure outcome-based quality assurance standards for postsecondary education that are aligned with established industry standards*: Mark Becker, Commission for Public Higher Education Alternate, and Jade Foster (alternate), National Council for AI Workforce Program Accreditation.

- *National Advisory Committee on Institutional Quality and Integrity*: Jennifer Blum, Blum Higher Education Advising, PLLC.

After obtaining extensive advice and recommendations from the public, the Secretary, as required by Section 492 of the HEA, 20 U.S.C. 1098a, prepared draft regulations and submitted them to a negotiated rulemaking process. The Committee for these proposed regulations convened April 13–17, 2026, and May 18–21, 2026. The Committee reviewed and discussed draft regulations prepared by the Department, as well as alternative regulatory language and suggestions proposed by Committee members. Additionally, during each negotiated rulemaking meeting, some non-Federal negotiators shared feedback that they had received from stakeholders in their respective constituencies. This approach facilitated the inclusion of a wide array of ideas and perspectives, which contributed to the development of the consensus language.

Under the organizational protocols for negotiated rulemaking agreed to by all members of the Committee, if the Committee reaches consensus on the proposed regulations, the Department agrees to publish, without substantive alteration, a defined group of regulations on which the Committee reached consensus—unless the

Secretary reopens the process or provides a written explanation to the participants stating why she has decided to depart from the agreement reached during negotiations. In this instance, consensus is considered to be the absence of dissent by any member of the negotiated rulemaking Committee (abstaining members are not considered to be dissenting from the proposal). The Committee reached consensus on the entirety of the draft regulations on May 21, 2026. As a result, this NPRM reflects the consensus language with minor technical and non-substantive corrections which are noted in subsequent sections of this NPRM.

VII. Significant Proposed Regulations

The Department discusses substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect. The Department may to release subregulatory guidance as a compliment to the regulations because E.O. 14279 requires that the Department “update the Accreditation Handbook to ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome.” The Department may provide subregulatory guidance in the Accreditation Handbook on areas like student engagement, site visits, complaint processes, faculty structure and evaluation. We also intend to clarify terminology such as peer review and evaluation teams in the Accreditation Handbook as well.

§ 600.11 Special Rules Regarding Institutional Accreditation or Preaccreditation

Statute: Section 496(h) of the HEA states that the Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

Section 496(i) of the HEA states the Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the

reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency’s accreditation shall be utilized in determining the institution’s eligibility for programs under the HEA.

Current Regulations: Current regulations under § 600.11(a) state that the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides materials described in regulation to the Secretary and receives approval, or if the institution was not provided its due process.

Current regulations under § 600.11(b) provide exceptions to the Secretary recognizing the accreditation or preaccreditation of an otherwise eligible institution if that institution is accredited or preaccredited as an institution by more than one accrediting agency.

Proposed Regulations: We proposed to amend paragraph § 600.11(a) to read that for purposes of §§ 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides the following to the Secretary: (1) all materials related to its prior accreditation or preaccreditation and (2) materials demonstrating reasonable cause for changing its accrediting agency. The Secretary will determine such cause to be reasonable unless the Secretary determines that the institution is seeking the change in order to—(A) evade or circumvent a requirement of Federal law or regulation; (B) avoid or delay enforcement or oversight by the Department or an accrediting agency; (C) obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or (D) otherwise undermine the integrity of the title IV, HEA programs.

We propose to require an institution to publicly disclose the change of accrediting agency within 10 business days on its website and make reasonable efforts to notify all current students and recent graduates for whom they have active contact information.

Under § 600.11(b), we propose that an institution may obtain accreditation or preaccreditation from more than one

accrediting agency recognized by the Secretary if the institution provides the following to the Secretary: materials related to its prior accreditation or preaccreditation and a written explanation showing reasonable cause for having multiple accreditors. Under the proposed regulations, the Secretary would determine such cause to be reasonable unless the Secretary determines that the institution is seeking to be accredited by more than one accrediting agency in order to: evade or circumvent a requirement of Federal law or regulation; avoid or delay enforcement or oversight by the Department or an accrediting agency; obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or otherwise undermine the integrity of the title IV, HEA programs. Additionally, the Secretary would not determine the cause of having multiple accrediting agencies to be unreasonable due to a withdrawal, revocation, other termination of accreditation, probation or equivalent, show cause order, or suspension order.

Reasons: We propose the changes under § 600.11(a) to ease restrictions on institutions wishing to change accrediting agencies and the changes under § 600.11(b) to ease restrictions on institutions wishing to hold accreditation from multiple agencies.

The proposed changes also incorporate the policies and practices in the Dear Colleague Letter (DCL) that the Department issued on May 1, 2025, titled “Changes to the Approval Process for Changing Accrediting Agencies”. This guidance noted that the Department’s lone interest in the matter of institutions changing accrediting agencies relates to “ensuring the institution is not switching accrediting agencies as a means of avoiding adherence to the Department’s laws and regulations.” The proposed regulations affirm institutions’ ability to freely develop unique partnerships with accrediting agencies or to hold multiple recognitions from accrediting agencies, which the statute neither prohibits nor disincentivizes.

These changes promote flexibility and innovation while maintaining necessary and robust guardrails that prevent fraud, waste, and abuse of taxpayer funds. Taxpayer funds would be protected through the stipulations that an institution subject to an adverse action cannot switch its recognition to simply avoid consequences, thereby ensuring Federal financial aid dollars do not flow to institutions with malintent. These changes also encourage competition; by removing regulations not directly based

in the statute that prohibited an institution from freely changing accrediting agencies based solely on geographic or other factors, institutions will now have the freedom to seek out accreditors that better fit their needs. By eliminating regulations that restrict movement among agencies, accrediting bodies will be incentivized to adapt and innovate in order to recognize additional institutions or retain their current institutions. The changes also assist in accomplishing the streamlining of the process to switch accrediting agencies so that institutions may find an agency that better aligns with their mission and values, a goal of E.O. 14279.

§ 602.2 How do I know which agencies the Secretary recognizes?

Statute: Section 101(c) of the HEA states that the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines to be reliable authority as to the quality of the education or training offered.

Current Regulations: Current regulations require that the Secretary periodically publish a list of recognized agencies in the **Federal Register**, together with each agency’s scope of recognition. The public may obtain a copy of the list from the Department at any time, and the list is also available on the Department’s website.

The regulations also require that if the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency’s recognition before the end of its recognition period, the Secretary must publish a notice of that action in the **Federal Register**. The Secretary also must make the reasons for the action available to the public, on request.

Proposed Regulations: The proposed regulations change a reference from “web site” to “website.” The regulations would also change the publication type from a “notice” to an “announcement” on the Department’s website. The proposed regulations would also specify that the Secretary publishes an announcement of each action limiting, terminating, or suspending an agency’s recognition on the Department’s website, along with the reasons for the action and the date it was taken, in addition to publishing such information in the **Federal Register**.

Reasons: The changes are proposed to update and simplify regulations while implementing the Department’s current practices in regulation. The updated reference to “website” is a solely a technical change to conform to standard

grammatical practices. Transitioning to the use of the word “announcement” rather than “notice” allows the Department to more quickly notify the public about certain accreditation actions taken and in a different medium. The Department will relay this information in a **Federal Register** notice, as is standard practice for most agency publications; however, modifying the regulations to allow for publication on the Department’s website allows information to be disseminated to the public more quickly, as a posting to the **Federal Register** can often take multiple days to process. Additionally, we propose adding the requirement that the Secretary publish the date when the action was taken to provide specific, transparent information about how long the agency has been subject to said action.

§ 602.3 What definitions apply to this part?

Statute: Section 496 of the HEA provides criteria that an accrediting agency must meet for the Secretary to recognize it as a reliable authority as to the quality of education or training offered.

Current Regulations: The regulations under § 602.3 define frequently used terms throughout § 602 and cross references to definitions in 34 CFR part 600, including the definition of “institution of higher education.” The regulations also prescribe definitions of terms, including but not limited to, *accreditation, accrediting agency or agency, institutional accrediting agency, program, and representative of the public.*

Proposed Regulations: The proposed regulations remove the cross reference to the definition of an institution of higher education under 34 CFR part 600. The proposed regulations add a definition of “institution,” which would mean an educational institution that meets the requirements of paragraph (1) of the definition of *eligible institution* found in 34 CFR 600.2. The Department would eliminate all references to “institution of higher education” throughout § 602 and replace them with “institution.”

The proposed regulations amend the definition of an “accrediting agency or agency” to remove the stipulation that accrediting activities must be conducted through peer review. The proposed definition of an accrediting agency or agency is a legal entity, or that part of a legal entity, that conducts accrediting activities through voluntary, non-Federal review, that may include peer review, and makes decisions concerning

the accreditation or preaccreditation status of institutions, programs, or both.

The Department proposes to add a definition of “related, associated, or affiliated trade association” to mean an organization that is generally a membership organization, that is organized to promote a line of commerce, business, industry, or profession, does not engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member, and is related to a particular accrediting agency in that the agency accredits institutions or programs that prepare students to enter the workforce of the same or substantially the same line of commerce, business, industry, or profession that organization promotes.

Finally, the Department proposes to reverse the order of affiliated with and associated in the definition of “representative of the public”. We propose that part (2) of the definition means a person who is not a member of any trade association or membership organization related to, associated with, or affiliated with the agency.

Reasons: The addition of the definition of “institution” is technical and non-substantive. There is not a singular definition of institution of higher education in 34 CFR part 600. There is, however, a singular definition of an “eligible institution” which includes public, nonprofit, proprietary and vocational institutions of higher education. Therefore, to clarify the definition and reduce the instances in which the Department would need to repeat “institutions of higher education” throughout § 602, we added the definition of “institution” to § 602.3 to cross reference the definition of “eligible institution” in 34 CFR part 600.

The Department proposes to remove the requirement for peer review from the definition of an “accrediting agency or agency” based on a recommendation from several negotiators. During negotiated rulemaking, non-Federal negotiators argued that accrediting agencies may wish to include professionals and experts on site visit teams who do not directly fit within the strictest meanings implied by the word “peer” or “peer reviewers.” The negotiators requested, in order to ensure flexibility for agencies and facilitate quality site reviews, for the Department to eliminate the reference to peer reviews. The Department ultimately agreed with these negotiators in an effort to enhance flexibility for accrediting bodies; however, we note that the exclusion of the word “peer”

does not preclude an agency from using peer review where it sees fit. The Department proposes to make use of peer review optional, not mandatory. We concur with the negotiators in their arguments that subject matter expertise does exist outside of the peer review process; other individuals or groups may have similar, if not more, subject matter expertise that allows them to be an effective evaluator of the quality of an institution or program. This flexibility would permit innovation in accreditation to allow agencies to create a unique review process for institutions and programs. This change would also reduce the regulatory burden of having to comply with outdated regulations not required under statute.

The Department proposes to add a definition of “related, associated, or affiliated trade association,” as the phrase appears both in statute and in our current and proposed regulations. In previous iterations of regulations under 34 Part 602, this term has not been defined, therefore, the Department believes that there is a need for a standardized definition so that all accrediting agencies can comply with the regulatory requirements in good faith. We find it critical to define this phrase in order to successfully apply the ‘separate and independent’ requirements contained in Section 496(b) of the HEA in the same manner across all agencies, and so that agencies have clarity on the organizations that the Department expects it to maintain clear firewalls with. For example, the HEA requires that an accrediting agency be separate and independent from a related, associated, or affiliated trade association to ensure there is no undue influence over the decision-making body that makes accreditation or preaccreditation decisions of institutions or programs, the accrediting agency’s dues, or the accrediting agency’s own budget. This separation is critical to ensuring the independence of accrediting bodies, ensuring that the priorities of such organizations focus primarily on students and educational outcomes, rather than the interests of a relevant trade association. For more discussion on proposed regulations to address reducing conflicts of interest please see the discussion under § 602.15. This provision also more clearly defines the affiliates that an agency may not engage in antitrust activities with, as further described in the “Reasons” section of § 602.13.

Finally, the Department amends the definition of “representative of the public” by reversing the order of “affiliated with” and “associated with” to match the order of the definition of

“Related, associated, or affiliated trade association”. This is a non-substantive technical change that aligns the language of regulations across Part 602.

§ 602.10 Link to Federal Programs

Statute: Section 496(m) of the HEA states that the Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

Current Regulations: The current regulations state that an accrediting agency must demonstrate that its accreditation is a required element in enabling at least one institution of higher education to establish eligibility to participate in HEA programs, or that its accreditation is a required element in enabling at least one institution of higher education or program to establish eligibility to participate in non-HEA Federal programs. This concept is referred to as the “Federal link,” meaning the Department can only recognize accreditors if they have a nexus through the HEA or another federal government program.

Proposed Regulations: The Department proposes to amend the regulations under § 602.10(a) to state that if an accrediting agency is seeking renewal of recognition, it must demonstrate that its accreditation is a required element in enabling at least one institution to establish eligibility to participate in the title IV, HEA programs. The proposed regulations state that if an agency accredits one or more institutions that participate in the title IV, HEA programs, the agency satisfies the Federal link requirement, even if the institution currently designates another institutional accrediting agency as its Federal link.

Under § 602.10(b), if the accrediting agency is seeking renewal of recognition and the agency accredits institutions, programs, or both, it must demonstrate that its accreditation is a required element to enable an entity to participate in a non-HEA Federal program, as stated in a Federal statute, regulation, grant or funding announcement, or other official Federal agency notice establishing eligibility requirements for participation. The proposed regulations also establish that the agency must provide documentation

that an institution or program is currently relying on the agency's accreditation as a condition of eligibility to participate in such programs.

Finally, we propose under § 602.10(c), if the accrediting agency is seeking initial recognition, it must demonstrate that an institution or program it accredits is likely to rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency within two years. In the event the agency does not have an institution or program that is relying upon the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program when the agency is recognized by the Department, it must report to the Secretary when the first institution or program it accredits begins relying upon its accreditation for such purposes. If, after two years after initial recognition, there are no institutions or programs that rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency, then the agency ceases to be recognized by the Department.

Reasons: Under § 602.10(a) we propose several minor technical, non-substantive edits. For example, we have updated "institutions of higher education" to "institutions" to conform with the updated definition in § 600.6. We also propose to add "title IV" before "HEA programs" to specify the section of the HEA that affects these regulations. Because the current regulations cover Federal link requirements for accrediting agencies that are seeking recognition and renewal of recognition, we propose to break out § 602.10(a) to only cover accrediting agencies seeking renewal of recognition.

Proposed regulations under § 602.10(b) would cover Federal link requirements for accrediting agencies that are seeking renewal of recognition. Combined, the proposed regulations under § 602.10(a) and (b) clarify that accrediting agencies will only be recognized if the agency's recognition is a material condition of eligibility for an institution or program to participate in a certain Federal programs. These edits strengthen the Federal link requirements for accrediting agencies that do not accredit institutions participating in the title IV, HEA programs and limit the Department's recognition reviews to accrediting agencies whose accredited institutions or programs actually utilize Federal funding programs. By increasing the strength of the Federal link requirement,

the Department proposes to ensure that government resources are expended solely on accrediting agencies that utilize Federal funding. This preserves Department Accreditation Group staff resources, who must review the agencies for recognition, as well as resources utilized to host meetings of the NACIQI, who must further review the agencies up for initial or renewal of recognition. Department recognition should extend, upon proper evaluation, only to those agencies that benefit from its use. An agency without any ties to the Federal government through title IV, HEA programs, or non-HEA federal programs, should consider the use of government resources when evaluating whether to continue to seek Department recognition when it is not necessary for its purposes.

The proposed changes to § 602.10(c) provide the expectation that institutions or programs accredited by accrediting agencies that are granted initial recognition would be expected to utilize a Federal funding program for an agency to maintain recognition. A single demonstration of use would not be sufficient to continue to claim a Federal link.

§ 602.11 Extent of Accrediting Activities

Statute: Section 496(a)(1) authorizes the Secretary to recognize nationally recognized accrediting agencies that can seek to operate as an agency or association within a State, region, or nationally, as appropriate. Every recognized accrediting agency is a "nationally recognized accrediting agency," because the HEA requires it to be nationally recognized in order to perform title IV gatekeeping functions under Section 101 and Section 496(m) of the HEA.

Current Regulations: The current regulations require an accrediting agency to demonstrate that it conducts accrediting activities within a State, a region or group of States, or the United States.

Proposed Regulations: Under § 602.11(a), the Department proposes to remove the reference to a State, if the agency is a part of a State government, and replace the language with a requirement that the agency must identify the extent of its accrediting activities and demonstrate that it has the capacity, policies, and procedures necessary to conduct accrediting activities within the identified extent.

Under § 602.11(b), we propose that an agency may seek recognition to operate in a group of States, or in all States, but the Secretary does not assign, prefer, or limit geographic scope, except as

necessary to ensure that the agency has the capacity to carry out its intended accrediting activities. Any geographical limitations are imposed at the sole discretion of the agency itself. We also propose that the Secretary may not assign institutions or programs to accrediting agencies, restrict institutions or programs from seeking accreditation from any agency recognized by the Secretary, directly or indirectly discourage institutions or programs from seeking accreditation from another recognized agency through policy, guidance, communications, other actions, or otherwise favor one recognized accrediting agency over another.

Finally, we propose that the Secretary may not delay, condition, or otherwise adversely affect an institution's participation in title IV, HEA programs solely because the institution seeks accreditation from, or changes accreditation to, another agency recognized by the Secretary.

Reasons: These regulations codify guidance in the "Clarification of the Appropriate Use of Terms 'National' and 'Regional' by Recognized Accrediting Agencies" (91 FR 7199) and discourage the identification of accrediting agencies as having a regional scope.

The guidance in 91 FR 7199 clarifies the appropriate use of the terms "regional" and "national" by an accrediting agency recognized by the Department when describing an accrediting agency's area of operation or recognition scope. The guidance was intended to further clarify the changes to the regulations in 34 Part 602 made by the Department's final rule published on November 1, 2019 (84 FR 58834).

Though these regulations ended the Department's recognition of accrediting agencies as "regional," some accrediting agencies and institutions of higher education continue to rely on such term in their representative texts and to the public. As noted in the Department's 2019 final rule, and in the guidance at 91 FR 7199, the Department does not recognize accrediting agencies as "regional."

The Department proposes in this final rule to adopt the principles in the guidance to clarify further the intent of the 2019 Final Rule, the Department seeks to ensure that the use of 'regional' nomenclature is eliminated to avoid sending false signals to students or the public that the institution lost its accreditation from a "regional accreditor" or that it now has a lesser accreditation status. These changes are intended to eliminate any preconceived notion that one accrediting agency or

association may be fundamentally ‘better’ than another, simply due to longstanding opinions, length of existence of the agency, or the institutions that the agency accredits. There is significant variety in institutions each formerly regional accrediting agency recognizes, and the elimination of the geographic border in 2019 allowed institutions to find an agency that better aligned with their mission or values. By proposing to fully eradicate the terminology here, the Department continues to break down barriers to competition and choice.

These proposed regulations make it clear that an agency may limit where it chooses to accredit, whether that be via State or group of States by geographic extent, but it is not a requirement for recognition by the Department, nor can an agency so term itself “regional” because of a self-imposed limitation on scope of recognition. Further, the Department proposes that it cannot intervene in or retaliate against an institution or program for its own decision to seek accreditation from any nationally recognized accrediting agency. This ultimately would ensure choice and flexibility in choosing an accrediting body is present for institutions, and allows consistency in perception of the quality of an accrediting agency.

Note that the title in the consensus language for this section was “§ 602.11 Geographic area Extent of accrediting activities.” The Department made a technical, non-substantive edit to amend the title to be “§ 602.11 Extent of accrediting activities.”

§ 602.12 Accrediting Experience

Statute: Section 496(a)(1) of the HEA requires that an accrediting agency demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate.

Current Regulations: Current regulations under § 602.12(a) require that an accrediting agency seeking initial recognition demonstrate that it has granted accreditation or preaccreditation prior to applying to the Department for recognition. Additionally, current regulations require that the agency has conducted accrediting activities for at least two years prior to seeking recognition, unless the agency is affiliated with or a division of another recognized agency.

Under § 602.12(b), a recognized accrediting agency seeking an expansion of scope must follow specific steps outlined in the regulations and demonstrate that it has policies in place that meet all criteria for recognition. An

agency that cannot demonstrate experience making an accreditation or a preaccreditation decision under an expanded scope may be limited in the number of institutions or programs to which it may grant accreditation under the expanded scope. The accrediting agency may also be required to submit a monitoring report regarding decisions made under the expanded scope.

Proposed Regulations: We propose to amend § 602.12(a) to require that an agency seeking initial recognition demonstrate that it has sufficient accreditation experience prior to submitting an application for recognition. An agency would be eligible to submit an application for recognition when it can show the following: (1) the agency is legally established to operate in the relevant jurisdiction; (2) the agency has adopted accreditation standards consistent with § 602.16; (3) the agency has adopted operating procedures consistent with § 602.23; and (4) the agency has established a process to accept applications for accreditation consistent with 34 CFR 602.17 and has at least one institution or program which has submitted an application for accreditation.

We propose to redesignate § 602.12(b) to § 602.12(d). The new paragraph § 602.12(b) would require that an agency seeking initial recognition must undergo the Secretary’s recognition process, defined in § 602.31, and an evaluation of the agency’s compliance with the Secretary’s recognition criteria, defined in 34 CFR part 602, for the purpose of determining if the agency is a reliable authority as to the quality of education or training provided by the institutions or programs it accredits before its application for recognition may be considered by the Advisory Committee.

We propose to add new § 602.12(c), which would require that an accrediting agency must have granted accreditation to one or more institutions if it is requesting recognition as an institutional accrediting agency, and to one or more programs if it is requesting recognition as a programmatic accrediting agency before the agency may be granted recognition.

Under the redesignated § 602.12(d)(1), we propose to amend the current requirements to add that a “contraction” of scope must also follow specific requirements. The amendments would require an accrediting agency seeking an expansion or contraction of its scope of recognition to follow the requirements in § 602.32, as well as demonstrate that it has accreditation or preaccreditation policies in place that meet all the criteria for recognition covering the

range of the specific degrees, certificates, institutions, and programs it seeks in its proposed scope. A change to an agency’s geographic area of accrediting activities does not constitute an expansion or contraction of the agency’s scope of recognition, but the agency must notify the Department of, and publicly disclose on the agency’s website, any such change. Paragraph (d)(2) of this section would remain the same as current (b)(2).

Finally, the Department proposes to add a new § 602.12(e), noting that experience qualifying under this section is not limited to the accreditation of institutions within a particular geographic area and may include experience obtained in a national, State or group of States, or programmatic basis.

Reasons: Changes proposed to § 602.12 would reduce overall regulatory burden for accrediting agencies seeking initial recognition. The proposal represents an alignment with the Department’s goal to reduce barriers to entry while also seeking to serve the interest of taxpayers and students by (1) ensuring minimum eligibility criteria are met and (2) that accrediting agencies with little experience in accrediting institutions or programs or enforcing standards be required to demonstrate success in this regard, aligning with the Department’s goal of a risk-based approach for initial recognition. The Department interprets the statutory requirement for a “comprehensive review and evaluation” to require that the Secretary consider whether an agency continues to satisfy all applicable recognition criteria. This is a holistic approach to ensure that any altered or changed elements do not contradict or conflict with any remaining elements and that the totality of the agency continues to benefit and not harm recognition.

The statute does not prescribe the form of an agency’s submission or require the Department to review criterion in support of unchanged policies and documentation during every review cycle. However, every renewal remains comprehensive because every recognition criterion is part of a holistic review. The Department is merely tailoring the documentation requested from agencies whose prior reviews and ongoing oversight indicate relatively lower risk.

We propose to add clearly defined guardrails that ensure that accrediting agencies seeking recognition are legally established in the relevant jurisdiction, and that the agency has accreditation standards and operating procedures consistent with the law and regulations.

This ensures that agencies that seek recognition from the Department have already established legitimate operations before initial petition, and that Department staff in the Accreditation Group have sufficient evidence to begin review of compliance with the Secretary's recognition criteria.

We propose to add § 602.12(b) to ensure that each agency submits a comprehensive petition to the Department for evaluation demonstrating that the accrediting agency meets the basic eligibility requirements and demonstrates implementation of the required accrediting standards, operating policies and procedures.

We propose to amend § 602.12(c) to remove language related to the requirement that an accrediting agency specify the geographic area for which the accrediting agency seeks recognition. By removing references to geographic area, the Department seeks to discourage identification of accrediting agencies based on geography and reduces unnecessary barriers to the recognition of accrediting agencies and an agency's subsequent recognition of an institution or program.

We also propose to remove the requirement that an accrediting agency grant or deny accreditation or preaccreditation for at least two years prior to seeking recognition by the Department. This two-year requirement is not statutory and represents undue and unnecessary burden for accrediting agencies seeking recognition. Timelines for review can be lengthy, given the cycle of review by the NACIQI, and may cause accrediting agencies seeking initial recognition to linger in review stage longer than necessary. Eliminating this two-year requirement removes a significant competitive barrier to entry that the Department expects will induce more accreditation agencies to pursue recognition and ultimately increase competition in the accreditation market.

By allowing agencies to petition for recognition as soon as it has received an application from at least one institution or program, it ensures that Department staff have evidence of standards and practices to review. And, by ensuring that recognition by the Department cannot be granted until the agency has approved a program or institution, it allows Department staff, NACIQI, and the Senior Department official to review implementation of such standards and practices to ensure the agency is functioning as a quality indicator. Both these stipulations provide enhanced guardrails to ensure Federal student aid is only flowing to qualified programs or institutions but also provides the agency

with increased flexibility in timeline for review and decreases overall time to recognition. These changes also implement the Department's interpretation and guidance published contained in 91 FR 7199.

Further, the Department proposes to redesignate current regulations under § 602.12(b) to § 602.12(d). In redesignating, we have also added a condition that accrediting agencies must apply to the Department when seeking a contraction in scope. For example, an accrediting agency would need to apply to the Department by fulfilling requirements under proposed § 602.32 if that agency sought to contract its scope from accrediting entry-level programs in a profession at the master's degree level to only programs at the doctoral degree level. The proposed addition will provide an avenue for the Department and the senior Department official to take action related to the current language at § 602.32(e): "The Department may view as a negative factor when considering an application for initial, or expansion of scope of, recognition as proposed by an agency, among other factors, any evidence that the agency was part of a concerted effort to unnecessarily restrict the qualifications necessary for a student to sit for a licensure or certification examination or otherwise be eligible for entry into a profession."

Finally, we propose adding 602.12(e) to reduce unnecessary barriers to the recognition of accrediting agencies, as directed by E.O. 14279, by acknowledging that accreditation experience can occur outside of a particular geographic area and may include in a national, State, or programmatic basis.

§ 602.13 Effect of Recognition

Statute: Section 496(a) of the HEA states that the Secretary may recognize an accrediting agency or association to be a reliable authority as to the quality of education or training offered for the purposes of title IV, HEA programs or for other Federal purposes, if, among other things, the agency or association is one of the four types enumerated in HEA Section 496(a)(1). With the exception of a State agency approved by the Secretary for the purpose of accrediting institutions of higher education, all three of these categories require that the agency or association be comprised of a "voluntary membership." See HEA Section 496(a)(2).

Additionally, HEA Section 496(n)(3) states that, when reviewing and evaluating the performance of all accrediting agencies or associations

seeking recognition by the Secretary, the "Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the criteria provided for in this section, including any complaints or legal actions against such agency or association."

Current Regulations: None. This section is currently reserved.

Proposed Regulations: Under § 602.13(a), the Department proposes to affirm that recognition does not confer immunity or any relief from Federal or State antitrust laws. Accrediting agencies, institutions, and programs remain subject to those laws, notwithstanding recognition or eligibility determinations made by the Department.

Under § 602.13(b), the Department proposes to amend the regulations to state that recognition does not authorize collective action among accrediting agencies, institutions, or programs that would otherwise be subject to oversight under Federal or State law.

Finally, we propose to amend § 602.13(c) such that recognition does not create a property interest or entitlement to continued recognition.

Reasons: The HEA does not provide that recognition of an accrediting agency or association by the Secretary confers any form of immunity from Federal or state antitrust laws.

The U.S. Department of Justice recently made clear in a statement of interest filed in a private lawsuit on December 15, 2025 that the antitrust laws apply to recognized accreditation agencies.⁶ In that case, a party suggested that the Department of Education's recognition displaces the antitrust laws.⁷ The Department of Justice explained that "[a]rguments supposing '[r]epeals of the antitrust laws by implication from a regulatory statute are strongly disfavored.'" *Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass'n*, 499 U.S. 117, 129 (1991) (quoting *United States v. Phila. Nat. Bank*, 374 U.S. 321, 350 (1963)). And that, the party had failed to make a "convincing showing of clear repugnancy between the antitrust laws and the [Department of Education's] regulatory system" necessary to establish a repeal by implication."⁸

The Department believes that adding clarification to its regulations regarding

⁶ Statement of Interest of the United States at 17, *Lincoln Mem'l Univ. v. Am. Veterinary Med. Assoc.* No. 25-cv-00282 (E.D. Tenn. Dec. 15, 2025), available at <http://www.justice.gov/atr/media/1420886/dl?inline>

⁷ *Id.*

⁸ *Id.*

this point is important, for multiple reasons.

First, the Department interprets the phrase “voluntary membership,” as used in HEA Section 496(a)(2), in accordance with the plain meaning of the word “voluntary”—*i.e.*, a membership composed of persons or institutions or programs who have joined on their “own free will without valuable consideration or legal obligation” or otherwise “unconstrained by interference.” See Merriam-Webster, *Voluntary*, Merriam-Webster.com (last updated June 20, 2026). One form of interference which would preclude an agency or association’s membership from being truly voluntary is that agency or association engaging in anti-competitive behavior prohibited by Federal or State antitrust laws, as such actions undermine the efficiency and fairness of the accreditation marketplace and limit the choices of market participants.

Second, the Department notes that E.O. 14279 directed the Department to “resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes.” The Department believes that, to carry out this directive successfully, it is necessary to remind existing accrediting agencies of the legal obligations to comply with Federal or State antitrust laws (despite this not being a new requirement) and to ensure that agencies do not attempt to construe the Secretary’s recognition to permit behavior that is illegal under the antitrust laws.

In a similar vein, neither the HEA, nor current Department regulations, authorize collective action among accrediting agencies, institutions, or programs that would otherwise be subject to oversight under Federal or State law, however, the Department believes that it is important to clarify this point for accrediting agencies. While the Department seeks to encourage collaboration amongst accrediting agencies, institutions, and other stakeholders, agreements to take collective action can limit competition and run afoul of antitrust regulation. Therefore, the Department proposes to include this language in regulation to minimize any potential for an accrediting agency to improperly construe the Secretary’s recognition to allow for activities which may violate Federal or State antitrust laws.

Finally, the Department proposes to add language stating that recognition of an accrediting agency by the Secretary does not create a property interest or entitlement to continued recognition for

clarity. “To have a property interest in a benefit,” a person or entity must “have a legitimate claim of entitlement to it.” *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 565, 577 (1972). Legitimate claims of entitlement arise from sources of positive law, such as statutes or regulations, that create reasonable expectations of specific benefits. *Id.* Thus, because neither Section 496 of the HEA, nor the Department’s regulations, require the Secretary to grant recognition to an agency or association or to continue such recognition after it is initially granted, no such legitimate claim of entitlement or property interest in such recognition can possibly exist. Adding this language to the Department’s regulations will simply serve to provide additional clarity and will provide the Department with protection in the event an accrediting agency who is denied recognition pursues legal action against the Department.

We further clarify that the Department is not the enforcer of antitrust law, but accrediting agencies are expected to comply with federal law, including avoiding anti-competitive practices, and that any findings by the Department of antitrust violations by agencies would be based on competent legal authority.

§ 602.14 Purpose and Organization

Statute: Section 496(a)(2) of the HEA lists the categories of accrediting agencies that the Department will recognize, including but not limited to, a State agency listed by the Secretary as nationally recognized on or before October 1, 1991; an agency with voluntary membership of institutions that utilize the agency’s accreditation to access title IV, HEA programs; an agency that has voluntary membership of institutions or programs that utilize the agency’s accreditation to access other Department or Federal programs; or an agency that has a voluntary membership of individuals in a profession or programs within institutions to access title IV, HEA programs. Section 496(a)(3) requires an accrediting agency to operate “separate and independent” of any related, associated, or affiliated trade association or membership organization unless that agency is categorized as having a voluntary membership of institutions or programs that utilize the agency’s accreditation to access other Department or Federal programs. Section 496(b) of the HEA defines the term “separate and independent”.

Current Regulations: The current regulations under § 602.14(a) generally mirror statutory requirements that prescribe which agencies the

Department can recognize. Similarly, § 602.14(b) prescribes the definition of “separate and independent,” which generally follows the statutory framework.

Regulations under § 602.14(c) allow for the joint use of personnel, services, equipment, or facilities by an agency and a related, associated or affiliated trade association or membership organization and clarifies these shared resources do not violate separate and independent requirements when certain firewalls are in place. Paragraph § 602.14(d) provides the parameters by which the Secretary may waive the “separate and independent” requirements. Finally, current regulations under § 602.14(e) state that an agency seeking a waiver of the “separate and independent” requirements must apply for the waiver each time the agency seeks recognition or continued recognition.

Proposed Regulations: The Department proposes to remove the phrase “. . . or obtain a waiver of those requirements under paragraph (d) of the section” from § 602.14(a)(4)(ii). The Department does not interpret this change to eliminate any waiver authority that Congress expressly provided in § 496(a)(3)(C). Rather, the Department concludes that no separate regulatory waiver process is necessary because the Secretary retains whatever waiver authority the statute itself provides.

We also propose to amend paragraphs (b)(1)–(5) and add new (b)(6). We propose amending § 602.14(b) to define “separate and independent” as (1) the members of the agency’s decision-making body, who decide the accreditation or preaccreditation status of institutions or programs, establish the agency’s accreditation policies, or both, are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or professional organization and are not staff of the related, associated, or affiliated trade association or professional organization; (2) at least one member of the agency’s decision-making body is a representative of the public, and at least one-seventh of the body consists of representatives of the public; (3) the agency has established and implemented mandatory conflict of interest controls for each member of the decision making body in accordance with § 602.15(e); (4) the agency’s dues are paid and held separately from any dues paid to any related, associated, or affiliated trade association or professional organization; (5) the agency develops and determines its own budget, without review by or in

consultation with any other entity or organization, including any related, associated or affiliated trade association or professional organization; and (6) the authorized representative of the agency submits a signed statement certifying that it has met the requirements to be “separate and independent” within each petition for recognition submitted to the Department, and includes in that statement information regarding any complaints received during the current recognition period that are material.

Finally, we proposed to remove and rescind § 602.14(c) and (d).

Reasons: The proposed changes to § 602.14 strengthen the fiscal and administrative requirements that an agency must meet in order for an agency to demonstrate that it is “separate and independent” from any related, associated, or affiliated trade association or membership organization. We propose to strike “or obtains a waiver of those requirements under paragraph (d) of this section” from § 602.14(a)(4)(ii) to no longer allow for waivers from compliance with the separate and independent criteria. The Department also clarifies that removal of the waiver may only affect those agencies eligible for a waiver under the current regulations. The Department does not interpret this change to eliminate any waiver authority that Congress expressly provided in § 496(a)(3)(C). Rather, the Department concludes that no separate regulatory waiver process is necessary because the Secretary retains whatever waiver authority the statute itself provides. Section 496(a)(3)(C) of the HEA; statute also clarifies that the granting of a waiver has been subject to the Secretary’s discretion. We believe that an accrediting agency’s decision-making body must not be influenced by any related, associated, or affiliated trade association or professional organization, and the waiver outlined under § 602.14 (d) did not adequately restrict such influence in the accreditation or preaccreditation of institutions or programs. The ability for an agency to seek a waiver has the potential to compromise some of the controls in place to prevent certain negative consequences, such as credential inflation, restrictions on entry into occupational fields, restrictions on the capacity of educational institutions, and slower adoption of innovations.

There was extensive discussion by the AIM Committee surrounding § 602.14(c) and proposed changes. Negotiators were concerned that accrediting agencies that share joint use or personnel services, equipment, or facilities with a related, associated, or affiliated trade association would be penalized, even if there was

no interaction between the two bodies. A few negotiators commented that some localities have limited office space that could necessitate that need to occupy the same facility; others pointed to the size of some facilities and the ability to separate via multiple floors or office spaces. One negotiator asked what the process would be for accrediting agencies that currently occupy the same facility as the related, associated, or affiliated trade association under a multiyear lease. The Department reiterated its position that, at minimum, accrediting agencies must avoid conflicts of interest by having separate personnel services, equipment, or facilities with a related, associated or affiliated trade association. Though we can appreciate the fact that there may be some hurdles accrediting agencies may face when shifting offices, that does not alleviate concerns that such proximity could exacerbate relationships that are already too close. Further, the Department clarified that we do not share the same concerns that an agency may not be able to find a separate space to conduct activities. The earliest these regulations would become effective is July 1, 2027, which we believe is sufficient time for an agency to find separate space and plan to comply with any changes in regulations. Additionally, we have provided for additional time for an agency that currently has a lease within the same facility at the related, associated or affiliated trade association. Under § 602.15(e)(4), the Department proposes to provide agencies with an additional year to comply with any regulations that affect shared spaces; therefore, the earliest date that agencies would be expected to comply with the regulation would be July 1, 2028.

§ 602.15 Administrative and Fiscal Responsibilities

Statute: Section 496(c) of the HEA provides that no accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in title IV, HEA programs unless the agency or association maintains specific operating procedures enumerated therein. HEA section 496(c)(1) requires an accrediting agency that wishes to be recognized by the Secretary to ensure accreditation team members are well-trained and knowledgeable with respect to their responsibilities.

With respect to those accrediting agencies serving as institutional agencies, as well as for programmatic accrediting agencies (whether or not the programmatic agency serves as a title IV

gatekeeper), Section 496(a)(2) of the HEA requires that agency’s membership be “voluntary.”

Section 496(a)(4)(A) requires that to be recognized by the Secretary, an accrediting agency or association must demonstrate that it consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the education offered by the institution of higher education is of sufficient quality to achieve the stated objective for which the courses or the programs are offered.

Current Regulations: Current regulations under § 602.15 require that an accrediting agency has administrative and fiscal capability to carry out accreditation activities in light of its scope of recognition. An agency must demonstrate that it has (1) adequate staff and financial resources, (2) competent and knowledgeable individuals, qualified by education or experience to conduct on-site evaluations, apply or establish policies, and make accreditation or preaccreditation decisions, (3) academic and administrative personnel on its evaluation, policy, and decision-making bodies, if an institutional agency, (4) educators, practitioners, and employers on its evaluation, policy and decision-making bodies, if a programmatic agency, (5) representatives of the public on all decision-making bodies, and (6) clear and effective controls to prevent or resolve conflicts of interest by the agency’s board members, commissioners, evaluation team members, consultants, administrative staff, and other agency representatives.

Proposed Regulations: We propose to amend the regulations at § 602.15 to add that the agency must have conflict of interest controls that apply to its own activities to carry out its accreditation activities in light of its requested scope of recognition. We propose to amend § 602.15(a) to state that the agency meets this requirement if it demonstrates that it has (1) adequate administrative staff and financial resources to carry out its accrediting responsibilities, (2) competent and knowledgeable individuals, qualified by education or experience in their own right as appropriate for their roles, (3) training provided to all agency representatives and staff that includes topics related to best practices in various educational delivery methods, models, and modalities; innovative or lower-cost educational delivery models that may provide high quality education to students; and avoiding unnecessary costs to institutions in the accreditation process, and (4) representatives of the

public on all decision-making bodies. We propose to move and amend the requirements currently at § 602.15(a)(6) to § 602.15(e).

In addition to amending existing requirements under § 602.15, we propose to add four additional requirements for an agency to demonstrate administrative and fiscal responsibilities.

We propose at § 602.15(c) that the agency must conduct its accreditation activities in a manner that seeks to avoid unnecessary financial, compliance, and administrative burdens, including by avoiding duplicative reporting, excessive documentation requirements, and unwarranted prescriptive processes.

We propose at § 602.15(d) that the agency will cooperate with other agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies.

We propose at § 602.15(e) that the agency has clear and effective controls, including guidelines, to (1) prevent or resolve conflicts of interest, or the appearance of conflicts of interest, by the agency's officers and directors, employees (including temporary, part-time, and full-time employees), evaluation team members, consultants and contractors, volunteers, and other agency representatives, (2) ensure that members of the standards-setting body, which may include members of the decision-making body, do not vote as members of the decision-making body on the setting of standards or policies that affect any institution or program that of which such a member is an officer, director, or employee, (3) determine its dues without review by any related, associated, or affiliated trade association or professional organization, (4) disallow shared resources, such as personnel, services, equipment, facilities, or information technology, nor have office space in the same building as any related, associated, or affiliated trade association or professional organization. The requirement for separate office space will take effect one year after the effective date of the final regulations, (5) ensure that any officers, directors, employees, or volunteers of the agency do not share or solicit feedback regarding the agency's policies, standards, or decisions with respect to any institution or program from any related, associated, or affiliated trade association or professional association, (6) prominently disclose on its website all relationships with related, associated, or affiliated trade

associations or professional organizations, and (7) not act to restrict access to employment in a profession, occupation, or vocation unless the agency provides notice of clear and convincing evidence to the Secretary that the restriction is necessary to protect the public interest; the expected public benefits outweigh the costs to the public from reduced access to the profession, occupation, or vocation; and no less restrictive alternative would adequately protect the public interest. We propose that restricting access to employment includes taking steps to increase credentialing standards; increasing the cost or level of required education or training; or decreasing the availability of education or training in a manner that may benefit any related, associated, or affiliated trade association or professional organization.

Finally, we propose at § 602.15(f) that the agency's accreditation standards, policies and enforcement practices must not restrict public institutions from fulfilling their obligations under the First Amendment to the Constitution of the United States. These standards similarly also must not restrict any private institutions that, through their institutional policies, guarantee the same or similar protections for students or faculty, unless the institution has a religious mission.

Reasons: The Department proposes to amend 34 CFR 602.15 to provide accrediting agencies with the flexibility necessary to adopt policies and procedures that encourage innovation and minimize unnecessary expenses for institutions, while simultaneously requiring agencies to operate in an open, transparent manner. The Department also seeks to add language to 34 CFR 602.15 for the purposes of clarifying that accrediting agencies should be composed of a "voluntary" membership and to require accrediting agencies to adopt policies designed to restrict anticompetitive behavior that could preclude institutions or programs from choosing, or switching to, the agency which best aligns with the institution's or program's educational mission.

First, to provide additional flexibility to accrediting agencies, the Department proposes to eliminate the current requirement in 34 CFR 602.15(a)(3) that institutional agencies include academic and administrative personnel on their evaluation, policy, and decision-making bodies. Likewise, the Department proposes to remove the current requirement in 34 CFR 602.15(a)(4) for programmatic accrediting agencies to include educators, practitioners, and/or employers on their evaluation, policy, and decision-making bodies. Instead,

the Department proposes to reduce the burden by simplifying these requirements by expecting that all accrediting agencies possess competent and knowledgeable individuals, qualified by education or experience, and trained by the agency on their responsibilities, as appropriate for their roles. The Department believes that this change will allow accrediting agencies the discretion to adopt the structures necessary to best perform their function and respond to the needs of their membership.

Additionally, the Department proposes to require accrediting agencies to adopt procedures necessary to manage conflicts of interest and prevent collusion between agencies, the institutions or programs which they accredit, related, associated, or affiliated trade associations, or professional organizations which could lead to accrediting agencies engaging in anticompetitive behavior that would compromise the "voluntary" membership of the agency and taint the agency's ability to apply and enforce its standards in a consistent manner. While the current regulations require accrediting agencies to adopt controls to manage conflicts of interest, the Department believes that it necessary to increase the specificity of these requirements, in recognition of the influence that agencies, both institutional and programmatic, wield over the institutions and programs that they accredit. To this end, the Department proposes requiring accrediting agencies to prominently disclose their relationships with related, associated, or affiliated trade associations and adopt controls to ensure that such organizations do not influence an agency's independent evaluation of the institutions and programs they accredit.

In this same vein, the Department proposes adding language barring accrediting agencies from acting to restrict employment in a given profession, occupation, or vocation. The purpose of this change is to ensure that agencies do not attempt to establish a monopoly over the accreditation of certain types of programs or institutions, particularly those that may lead to credential inflation, resulting in increased costs to students and lengthier time to credential. However, the Department recognizes that certain restrictions on access to employment in specific professions, occupations, or vocations may be necessary to protect the public interest, such as ensuring sufficient level of quality and safety in job performance. To this end, the Department proposes adding provisions

that allow accrediting agencies to act to create such restrictions, so long as the agency provides clear and convincing evidence that such restrictions are necessary to the public interest.

Finally, the Department proposes to add language that explicitly bars accrediting agencies from adopting or enforcing policies that would prevent public institutions from fulfilling their obligations under the First Amendment to the Constitution of the United States or private institutions from adopting policies which guarantee similar protections to students and faculty. The Department believes that this requirement is necessary to ensure that all institutions or programs are treated in a consistent manner by accrediting agencies and that agencies do not take actions that would unnecessarily restrict free inquiry and academic discourse at institutions or programs.

§ 602.16 Accreditation and Preaccreditation Standards

Statute: Section 496(a)(5) states that accrediting agencies must establish standards of accreditation to assess the institution's or program's success with respect to student achievement, curricula, faculty, facilities, fiscal and administrative capacity, student support services, recruiting and admissions practices, program length and credentials, student complaints, and compliance with program responsibilities under title IV of the HEA.

Current Regulations: The current regulations require that an accrediting agency's standards set forth clear expectations for the institutions or programs it accredits under the same criteria as listed under the *Statute* heading of this section. The accrediting agency's preaccreditation standards, if offered, must relate to its accreditation standards and not span more than five years before a final action is made.

Specifically, § 602.16(a)(1) and (a)(1)(i) require that the agency's accreditation standards must set forth expectations for the institutions or programs it accredits in the following areas, including success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, course completion, and job placement rates.

Proposed Regulations: We propose to amend § 602.16(a)(1) and (a)(1)(i) to require that the agency's accreditation standards must establish requirements for the institutions or programs it

accredits in the following areas: (i) Success with respect to student achievement at the institutional and program level in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, course completion, and job placement rates, as described in § 602.17(a)(1). We also propose under § 602.16(f) that an agency that has established and applies the standards in paragraph (a) of this section may establish any additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity, as it deems appropriate.

Reasons: The proposed edits under § 602.16 eliminate subjectivity and increase the clarity of the regulations by changing "set forth clear expectations" to the proposed "establish requirements" under § 602.16(a)(1), which does not change the effect of the regulation, and adding "at the institutional and program level" under § 602.16 (a)(1)(i). Also, under § 602.16(a)(1)(i), we propose to add a cross reference to § 602.17(a)(1) to provide accrediting agencies with clarity on the application of standards.

Finally, we added clarifying language to § 602.16(f) to require that any additional standard that an accrediting agency adopts beyond those required by Section 496 of the HEA does not violate any other Federal law and is consistent with ensuring institutional or programmatic quality and integrity. In amending these standards, we also address one of the goals of E.O. 14279, which is to ensure that accrediting agencies do not force institutions or programs to violate State laws, unless those conflict with Federal law or the Constitution. For example, this requirement would prohibit an agency from holding a standard that would require its recognized institutions or programs to only hire faculty 30 years old or younger. Such a standard would violate the Age Discrimination in Employment Act of 1967, therefore placing the institution in violation of Federal law due to the agency's policies. A policy such as this would neither be lawful, nor would it contribute to the evaluation or assurance of quality or integrity at an institution or program.

§ 602.17 Application of Standards in Reaching Accreditation Decisions

Statute: Section 496(a)(6)(A) states that no accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality

of education or training offered or for other Federal purposes, unless the agency or association meets criteria established by the Secretary. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that such an agency or association establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures.

Current Regulations: Current regulations require that the agency have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it evaluates whether the institution or program maintains clearly specified educational objectives that are consistent with its mission and appropriate in light of the degrees or certificates awarded; is successful in achieving its stated objectives at both the institutional and program levels; and maintains requirements that at least conform to commonly accepted academic standards, or the equivalent, including pilot programs in § 602.18(b). The regulations also state that an agency's standards must require an institution or program to engage in a self-study process that assesses the institution's or program's education quality and success in meeting its mission and objectives; to highlight opportunities for improvement; and include a plan for making those improvements. The regulations also require an accrediting agency to conduct at least one on-site review of the institution or program during which it obtains sufficient information to determine if the institution or program complies with the agency's standards. The current regulations also require an agency to allow the institution or program the opportunity to respond in writing to the report of the on-site review.

Current regulations also require an agency to conduct its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other information substantiated by the agency from other sources to determine whether the institution or program complies with the agency's

standards. They also require an agency to provide the institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards, including areas needing improvement, and the institution's or program's performance with respect to student achievement.

Finally, the regulations require an agency's standards to ensure institutions have processes in place through which the institution establishes that a student who registers in any course offered via distance education or correspondence is the same student who academically engages in the course or program. Regulations also require it to be stated, clearly and in writing, that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

Proposed Regulations: We propose to amend § 602.17(a) to tie process of an agency applying and reviewing the standards to the standards as set forth under § 602.16. The remainder of § 602.17(a) would require that the accrediting agency evaluates whether an institution or program maintains clearly specified educational objectives, which may include credit for prior learning, that are consistent with its mission and appropriate in light of the degrees or certificates awarded that are developed, regularly reviewed, and updated using reliable data. We propose that, as appropriate to the accrediting agency's own standards, it reviews an institution's student success with respect to student achievement at both the institutional and program levels, including minimum expectations, by assessing State licensing or certification examination results, where applicable to the program of study; program retention, completion, or graduation rates, including as appropriate the extent to which grades meaningfully reflect student learning and support progression through the program of study, post-completion or graduation outcomes, including employment and continued education; scores on relevant standardized assessments taken for admission to a higher-level degree, during and after the time of enrollment at an institution, as available; and educational and economic returns aligned to the program's credential level, length, and occupational context relative to the total cost of attendance. Such returns shall be assessed using the earnings data calculated under 34 CFR 668 Subpart Q, enhanced Unemployment Insurance wage records,

or other reliable earnings data available to the agency.

We propose that when applying its standards on faculty, the accrediting agency evaluate whether an institution maintains a sufficient number of appropriately qualified faculty and other subject matter instructors who are regularly evaluated on the performance of their instructional, research, or service responsibilities and applies written faculty performance evaluation policies that include defined performance criteria and are conducted on a periodic basis. The accrediting agency would be required to maintain academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission. If an institution has a religious mission, the agency would evaluate whether the institution maintains academic freedom protections that are consistent with the institution's religious mission and applied consistently to faculty, regardless of appointment classification, race or other immutable characteristics, and with sufficient flexibility in instructional staffing policies and procedures to respond to persistent, material changes in student demand, program viability, or financial conditions. In addition, in the case of public institutions, the agency would be required to consistently apply policies that protect the First Amendment to the Constitution of the United States. The agency should similarly evaluate any private institution that, through its institutional policies, guarantees the same or similar protections for students or faculty. The agency would also be required to maintain policies regarding the integrity of scholarly activity, research, and practices designed to prevent, detect, and address fabrication, material misrepresentation or falsification, plagiarism, and other forms of research misconduct. This would need to include mechanisms for timely investigation, corrective actions, and, as appropriate, public disclosure. Agencies would need to evaluate whether institutions have a policy, or policies, to protect civil rights and, as applicable, First Amendment rights, and whether such policy or policies include academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission. We propose to require that such policies

must also include academic freedom and freedom of inquiry protections for faculty in teaching, scholarship, and research within the subject matter of a course and research within their academic discipline, including conditions under which a range of academic perspectives may be expressed and examined without adverse action based on lawful viewpoints unrelated to professional or academic competence, unless the institution has a religious mission. In the case of a private institution, agencies would be required to assess policies that, if established, guarantee the same or similar protections.

We propose to require a recognized accrediting agency to establish a policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty, to include elements that address intellectual inquiry and student learning, and measures student and faculty perceptions on the range of viewpoints and perspectives offered by the institution or program, unless the institution or program has a religious mission. If an institution or program has a religious mission, the policy would need to include elements that address intellectual inquiry and student learning that are consistent with the institution's religious mission.

We propose that when applying its standards related to facilities, equipment, and supplies and student support services, agencies conduct a cost/benefit analysis, which means a review by the agency of the institution's budget, resource utilization and allocation, and if existing, its business/strategic plan, continuous improvement strategic plan, and review of whether the institution considers whether the expected benefits of the institution's activities justify the associated financial, administrative and opportunity costs, and the impact of capital expenditures on future operating expenses. Agencies would also be required to conduct a review of an institution's practices and capabilities regarding the administration of student aid programs, and of the sufficiency and proper maintenance of the institution's facilities to ensure that such facilities comply with applicable safety standards, laws, and regulations.

We propose, when applying its standards on program length and the objectives of degrees or credential offered, an accrediting agency seeks to ensure that program length is appropriate to the objectives of the program and credential awarded at the institution. In applying its standard, the agency must not categorically prohibit or unreasonably restrict the

accreditation of a short-term program that is designed to prepare students for employment in recognized occupations eligible for Federal student aid under applicable law or a certificate or degree program offered for a shorter period of time than is traditionally required to obtain that credential, so long as the program results in comparable academic, professional, and employment outcomes for students who would complete such programs.

We changed the initial wording slightly (without changing the meaning) in subparagraphs (a)(2)(ii) and (v) from the consensus language to grammatically align them with the stem and the rest of the sentence structure.

We propose to add new § 602.17(b), which would establish requirements for how an agency must apply and determine an institution's or program's compliance with its standards. We propose to remove the current requirement for self-study and replace it with the requirement for a comprehensive review process, that may include self-study. We propose to make conforming changes throughout § 602.17, renumbering current paragraphs (b)–(f) to 602.17(b)(1)–(5). We propose to move current 602.17(g) to 602.17(c), in which a clarifying, non-substantive technical edit is made. Our proposal also strikes the current paragraph at 602.17(h).

We propose to add § 602.17(d) to require that, when applying its standards, an agency seeks to reduce unnecessary barriers which restrict the ability of institutions or programs from adopting instructional, programmatic, or delivery practices that improve student access, accelerate credential or degree completion, or support innovative models of postsecondary education, including program length.

We propose to add § 602.17(e) to require that the agency adopts, implements, and enforces written policies and procedures that seek to ensure the accuracy, completeness, and integrity of all representations made by the agency to the Secretary, the public, including current and prospective students, State, Tribal, and other governmental authorities, and institutions or programs it accredits or preaccredits.

Under proposed § 602.17(f), we would require that the agency has policies to ensure it does not knowingly make false, misleading, or materially incomplete statements regarding the accreditation or preaccreditation status of any institution or program; the scope, conditions, or implications of accreditation or preaccreditation, or

compliance of an institution or program with applicable Federal or State law.

We propose to require that the accrediting agency maintain procedures for the prompt correction of materially inaccurate public statements or disclosures, maintains procedures for investigating credible allegations that the agency or its representatives made materially inaccurate or misleading representations, and takes appropriate corrective or disciplinary action when it determines that materially inaccurate or misleading representations have occurred.

We propose under § 602.17(g) that the agency may not have standards that encourage, direct, or otherwise require institutions or programs to violate Federal or State law, including by having policies that provide any preferences on the basis of race.

Finally, under § 602.17(h) we propose to state that nothing in this section would be construed to require any action that would conflict with applicable Federal or State law.

Reasons: In amending § 602.17(a), we propose to codify in regulation that the stipulations for review and evaluation under this section is how accrediting agencies must evaluate and monitor its established standards in accordance with § 602.16 at its recognized institutions and programs. When applying these standards, the Department anticipates that accrediting agencies will use data to ensure continuous improvement in their programs and consistent evaluation against previous benchmarks. We proposed changes under § 602.17(a)(1) to ensure that standards related to student achievement may include credit for prior learning. This ensures that a priority of E.O. 14279 is addressed, which requested that the Department reduce barriers to agencies implementing innovative practices to advance credential completion and establishing new educational models. Requiring accrediting agencies to evaluate prior credit ensures that educational programs and coursework becomes stackable, and that students retain high-quality prior credit to shorten time to completion, as well as keep credit earned from outside learning while enrolled at a program. Additionally, the proposed requirements to regularly review degree or certificate offerings using reliable data continues to emphasize several of the Administration's goals, which is to ensure that there are objective measures of quality utilized alongside of subjective measures. Using reliable data ensures that programs are evaluated against the same metrics and can be

comparatively weighted to ensure accountability in higher education. These data may also speak to the quality of outcomes upon graduation, including employment rates, placement rates, or average wages. Note that the Department may provide more clarity on how an agency may assess "relevant standardized assessments" taken for admission to a higher-level degree in the future sub-regulatory guidance.

We propose changes to § 602.17(a)(2), and the addition of § 602.17(a)(1)(ii), to set expectations that accrediting agencies must adhere to when evaluating institutions and programs for standards related to student achievement. The proposed addition of § 602.17(a)(2) would set expectations to which accrediting agencies must adhere when evaluating institutions and programs for standards related to faculty. This addition includes § 602.17(a)(2)(iii)–(viii) to implement the requirements in E.O. 14279 which "requires that institutions support and appropriately prioritize intellectual diversity amongst faculty in order to advance academic freedom, intellectual inquiry, and student learning" and to ensure that "accreditors are not using their role under Federal law to encourage or force institution to violate State laws, unless such State laws violate the Constitution or Federal law." The Department's goal in instituting these regulations is to support academic freedom and intellectual diversity on college campuses as a critical component of educational quality. Diversity of thought and perspectives help inform students' decision-making, research, and practices.

The Department believes promoting intellectual diversity at postsecondary institutions will also help to increase critical thinking amongst students. As students graduate and enter the workforce, their jobs, family, and many other life circumstances will require strong critical thinking skills. Individuals will be able to make more thoughtful, well-developed decisions having been exposed to a diversity of thought during college. Intellectual diversity will also expose students to a wide variety of perspectives which will encourage them to express their own views and strengthen their understanding of their rights to constitutionally protected speech. We also believe that healthy debate is necessary, and intellectual diversity will encourage students to engage in meaningful conversations with professors and other students. Students can find common ground on various subjects or simply agree to disagree but still come away with a full

understanding of other thoughts and viewpoints.

The intent is not to prescribe specific institutional policies or override institutional autonomy, but rather to ensure that sufficient consideration is given to ensuring intellectual diversity is present on campus. The proposed regulations would also require accrediting agencies to ensure that accredited public institutions' policies, practices, and procedures comport with the First Amendment, as interpreted by Federal courts, including with respect to viewpoint nondiscrimination, religious nondiscrimination, and speech protections. Such references, throughout the regulations, are not intended to make accrediting agencies the arbiters of constitutional law, but to ensure institutions have and apply policies consistent with legal requirements. Further, accrediting agencies are not expected to investigate or enforce civil rights law but to ensure institutions have policies and respond appropriately to findings by competent authorities. The accrediting agency's role is to ensure institutions have and apply appropriate policies, not to adjudicate legal disputes or act as enforcement agencies. The HEA does not define the term "academic freedom". During negotiated rulemaking, the Department proposed a definition of academic freedom. While we believe that the proposal was clear and represented a fair interpretation of the phrase, a few negotiators dissented to the inclusion of a definition of academic freedom in the regulations. The Department subsequently removed the definition from the proposal; instead, we propose to require that agencies adopt and implement standards for evaluating if an institution has a policy for academic freedom. For reference, the Department's non-binding proposed language for adoption is represented below. We are not requiring agencies or institutions to apply this definition; however, if an agency or institution does apply this definition, we believe that would meet the requirements of the E.O. and our proposed regulations.

Academic Freedom:

(1) Means the freedom of faculty to:

(i) conduct research, publish their findings, and teach without undue interference and engage in discussion of any matter germane to the subject of the course being taught; and

(ii) speak and write in their personal capacity, provided that such activities are lawful and comply with applicable institutional rules and policies, and that faculty do not represent their views as those of the institution.

(2) Does not include the freedom to introduce, or solicit discussion of, material that is not germane to the subject of the course being taught.

(3) Nothing in this definition shall be construed to prohibit institutions or accrediting agencies from adopting and enforcing policies reasonably designed to promote intellectual diversity, the exposure of students to a range of scholarly viewpoints, or the balanced presentation of competing perspectives, so long as such policies do not infringe the core protections of academic freedom described in this section.

The proposed § 602.17(a)(2)(vi) requires that, in evaluating whether an institution is in compliance with an agency's standards, the agency must evaluate whether an institution maintains policies related to research misconduct. Research misconduct includes, but is not limited to, plagiarism, material misrepresentation of research findings, including through undisclosed selective reporting or other practices that distort the accuracy or reliability of results. We believe that accrediting agencies must ensure institutions have policies in place to prevent faculty members from engaging in improper authorship attribution, citation manipulation, or coordinated practices intended to inflate or misrepresent scholarly impact. We encourage the use of artificial intelligence to enhance productivity, streamline processes, and make teaching more efficient. However, we also believe agencies and institutions must ensure that artificial intelligence is not used by faculty to supplant teaching and instruction. We do not believe that artificial intelligence should degrade methods in the conduct and presentation of research. The proposed regulations help to maintain integrity of research and among the institution's faculty by encouraging responsible uses of beneficial technology. Students benefit from the research activities of institutions of higher education in many ways. Many students have opportunities to work directly with faculty on research projects and gain valuable experience and exposure to cutting-edge technology and ideas. Faculty involved in research are better able to teach students about current ideas in their disciplines. Research that is not conducted with integrity, however, will not convey these benefits to students, and can even tarnish the reputations of students involved in unethical research and teach the wrong lessons. Additionally, the proposal will benefit taxpayers by ensuring that the education system they help fund is built upon integrity and responsible practice.

We propose to add § 602.17(a)(3)(i) and (ii), which would require accrediting agencies to conduct a cost/benefit analysis to review and ensure institutions have sufficient flexibility in instructional staffing policies and policies regarding integrity of scholarly activity. The addition of this language is intended to provide relief for students and taxpayers who have suffered increased debt burdens through costly standards of accreditation, whether that be decreasing the number of students allowed in a classroom at once, requiring increased student to teacher ratios where not necessarily required, or decreasing the number of courses a professor is required to teach, thereby adding additional hiring costs. These regulations would allow greater institutional flexibility to control costs and to make cost efficiency a factor that accrediting agencies consider when evaluating whether to implement certain standards, and in evaluating whether changes made by a recognized program or institution are justifiably necessary to the quality of the program at the cost proposed. The intent is not to require burdensome analyses for every expenditure, but to encourage prudent, evidence-based decision-making.

The Department also proposes to add § 602.17(a)(4), which provides that agencies must evaluate whether the length of a program is appropriate to the goals of such program and the credential sought. In proposing this regulation, the Department seeks to ensure that program length is not artificially extended in order to seek additional revenue from a student. For example, when evaluating programs in accordance with the proposed regulation, the Department would expect that accrediting bodies would weigh the length of the program against peer programs. A bachelor's degree that requires five years of education may be a program that an agency would feel to be inappropriate in length, given the nation-wide standard of four-year bachelor's degrees. Conversely, an agency must also ensure that the program length is sufficient to provide the appropriate education, which may be more subjective and varied at the graduate level. This provision would require the agency to conduct careful evaluation to ensure that Federal student aid dollars, and taxpayer resources, are not being used inappropriately to increase an institution's bottom line. In adding this provision to regulations, we aim to continue to decrease barriers that limit

innovation and practices that advance credential completion.

Proposed changes to § 602.17(b) would eliminate the requirement that an institution or program engage only in a “self-study” and allow agencies to implement innovative and comprehensive approaches to evaluating the quality of an institution or program. We believe that only allowing institutions to conduct a self-study is limiting, and new approaches for reflection and evaluation should be encouraged to spur competition and advancement in accreditation. During self-study the institution or program seeking recognition prepares an in-depth self-evaluation study that measures its performance against the standards established by the accrediting agency. We believe innovation is key to advancing evaluation of academic quality. Relying on a one-size fits all approach discourages progress and new methodologies from emerging that may be better than a self-study. Accrediting agencies can continue to require a self-study; however, other options may be better for institutions. Institutions may prefer an independent audit or a review from business leaders in the community or region that the institution is located among forms of evaluation.

The proposed addition of § 602.17(d) is a direct application of the requirement in E.O. 14279 that prohibits accrediting agencies from engaging in practices that result in credential inflation that burdens students with additional unnecessary costs. One of the most common letters that the Department receives from the public is regarding the high cost of attendance at postsecondary institutions. Many prospective students have written to the Department requesting more be done regarding overall costs to credential completion. By prohibiting agencies from establishing unnecessary barriers to actions that may improve access, accelerate credential completion, or support innovative models around program length, the Department is taking the necessary steps to encourage agencies and institutions to think about and enact policies that reduce a student's need to borrow more. The proposed addition of § 602.17(e) seeks to mandate that the accrediting agency has a policy that ensures that accredited institutions only present factual information to stakeholders. The proposal ensures transparency and consistency, while also protecting taxpayers and students by adding requirements regarding misrepresentation and fraud. We proposed to add § 602.17(f) to require integrity and transparency in the public

communications and policy of accrediting agencies. Accurate statements from accrediting agencies about accredited and preaccreditation institutions serve to protect and safeguard students, taxpayers and postsecondary institutions.

The proposed addition of § 602.17(g) reinforces the Department's objective, and a goal of E.O. 14279, of ensuring that higher education programs are free from unlawful discrimination or other violations of Federal law. As noted above, this does not intend to make the agency the arbiter of any violation of Federal law, but rather ensures that the agency evaluates any glaring violations of such law. The proposed language under § 602.17(g) related to discrimination or preferences is limited to those practices that are unlawful under Federal or State law, and not intended to prohibit lawful single-sex or mission-based practices.

Finally, the proposed addition of § 602.17(h) confirms that these regulations do not require an accrediting agency to violate applicable Federal or State law to demonstrate compliance.

The changes proposed in § 602.17 are intended to provide flexibility when taking into account institutional mission, program type, and other contexts.

§ 602.18 Ensuring Consistency in Decision-Making

Statute: Section 496(a)(4)(A) states that the Secretary shall establish criteria to require that such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education or correspondence courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered.

Current Regulations: The current regulations under § 602.18(a) require accrediting agencies to consistently apply and enforce standards that respect the stated mission of the institution and ensure that its instruction is of sufficient quality to achieve its stated objective for the accreditation or preaccreditation period.

The current regulations under § 602.18(b) require an accrediting agency to have written specification of the requirements for accreditation and preaccreditation, have effective controls against inconsistent application of

standards, base decisions on published standards, have a reasonable basis for determining that information is reliable, and provide the institution or program with a detailed written report that identifies deficiencies and publish policies for retroactive accreditation.

The current regulations at § 602.18(c) state that nothing prohibits an agency, when special circumstances exist, to include innovative program delivery approaches or, when an undue hardship on students occurs, from applying equivalent written standards, policies, and procedures that provide alternative means of satisfying one or more of the requirements set forth in 34 CFR 602.16, 602.17, 602.19, 602.20, 602.22, and 602.24, as compared with written standards, policies, and procedures the agency ordinarily applies as along as certain conditions are met.

The regulations under § 602.18(d) state that nothing prohibits an agency from permitting the institution or program to be out of compliance with one or more of its standards, policies, and procedures adopted in satisfaction of §§ 602.16, 602.17, 602.19, 602.20, 602.22, and 602.24 for a period of time, as determined by the agency annually, not to exceed three years unless the agency determines there is good cause to extend the period of time and meets several other regulatory requirements.

Proposed Regulations: We propose to add new paragraph § 602.18(b)(4) that states that the agency meets the requirement in paragraph (a) of this section if the agency “has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards, except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints,” followed by conforming changes to renumber current paragraphs 602.18(b)(4)–602.18(b)(6) to 602.18(b)(5)–602.18(b)(7).

We propose to amend paragraph § 602.18(c) to codify that nothing prohibits an agency from reducing barriers that limit institutions and programs from adopting practices that advance credential and degree completion, and that promote new models of education by applying equivalent written standards, policies, and procedures that provide alternative means of satisfying one or more of the requirements set forth in §§ 602.16, 602.17, 602.19, 602.20, 602.22, and 602.24, as compared with written standards, policies, and procedures the agency ordinarily applies as long as conditions under the current regulations

are met. Finally, we propose rescinding § 602.18(d).

Reasons: We propose the addition of paragraph § 602.18(b)(4) to ensure that accrediting agencies remain neutral towards viewpoint diversity and prioritize diversity of thought on campuses. Within this, we also recognize that there are several accrediting agencies or associations with religious missions. As such, we stipulate here that this does not apply to institutions accredited by these agencies, in the name of respecting the mission of such an agency. We propose edits to paragraph (c) to clarify that the Department encourages new education models to accelerate innovation and improve accountability by establishing new flexible and streamlined quality assurance pathways for higher education institutions that provide high-quality, high-value academic programs.

We rescinded § 602.18(d) because we propose to move to the language to § 602.20 with modifications, as described below.

§ 602.20 Enforcement of Standards

Statute: Section 496(a)(4)(A) states that an accrediting agency consistently applies and enforces standards that respect the stated mission of the institution of higher education. Section 496(a)(6) states that an accrediting agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures. Finally, Section 496(e) states that the Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

Current Regulations: Under current § 602.20(a)(4), if the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must have a written policy to evaluate and approve or disapprove monitoring or compliance reports it requires, provide ongoing monitoring, if warranted, and evaluate an institution's or program's progress in resolving the finding of noncompliance. The regulations prescribe the procedures an accrediting agency must implement if it finds an institution or program out of compliance. Additionally, § 602.20(e) requires that all adverse actions are subject to arbitration requirements.

Proposed Regulations: Under § 602.20(a)(4), we propose to remove the requirement that an accrediting agency be required to approve or disapprove monitoring or compliance reports and provide ongoing monitoring, if warranted, for an institution or program that is non-compliant with any one of the agency's standards. The proposed paragraph would require that an accrediting agency have a written policy to evaluate an institution's or program's progress in resolving the finding of noncompliance. Under § 602.20(e), we propose to add language to the existing paragraph to require that any agency arbitration standard or policy must be nonbinding, except that both parties may agree to binding arbitration after a dispute arises on a case-by-case basis. If an agency has an arbitration policy or standard, it must apply to all final adverse actions, however, an agency may require the institution or program to first exhaust the agency's appeal process; ensure that the arbitration process is fair and impartial; and provide for a transparent and reasonable period of time for resolution of disputes.

We propose adding new § 602.20(h). Under the proposed regulations, an agency must have a policy for restoring accreditation (including retroactive restoration) in circumstances that the agency determines are appropriate, including if required by an applicable judicial decision.

As noted above in our description of the reasons for proposed amendments to § 602.18, we propose moving current § 602.18(d) to a new § 602.20(i) and to make one amendment to remove current 602.18(d)(1)(v).

Reasons: We proposed the edits to § 602.20(a)(4) to simplify regulations. We believe the current language is confusing to accrediting agencies since we use the terms "monitoring or compliance reports," which are defined at § 602.3 as applicable to an agency, not an institution or program. We believe removing the language does not substantively change the requirement; accrediting agencies will still need to have a written policy to evaluate an institution's or program's progress in resolving a finding on noncompliance.

We propose the additions under § 602.20(e) to more closely align with the statutory text. Section 496(e) of the HEA states that "The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action." The best reading of this section

is that the Department cannot recognize that an institution is accredited unless the institution and agency have agreed to an initial arbitration when the institution is first accredited and asks for that accreditation to be recognized by the Department. This arbitration agreement cannot be binding, because the statute specifies that it must be "initial" and provides that the institution may still instigate "any other legal action" after arbitration. A binding arbitration agreement would prevent the institution from pursuing "any" other legal action. However, nothing in the statute prevents an institution and agency from entering into a binding arbitration agreement later, once a dispute has arisen. Indeed, nothing in the statute gives the Department the authority to impose requirements on arbitration agreements other than that which is entered into when the institution is first accredited. The Department also released guidance in November 2023,⁹ that clarified that arbitration must be initial and non-binding. If an accrediting agency and institution choose to enter into binding arbitration after a dispute arises, then that is permissible because both parties come to an agreement as opposed to an agency requiring the arbitration as a requirement to seek or maintain accreditation.

We propose to add language under § 602.20(h) to require an accrediting agency to have a policy to restore accreditation in circumstances it deems appropriate, including if required by an applicable judicial decision. Current regulations already allow for such a policy, but this proposal now requires an accrediting agency to have such a policy. We believe the proposed language is necessary because retroactive accreditation may be appropriate based on unseen circumstances that might arise.

With the exception of § 602.18(d)(1)(v), we propose moving language from § 602.18(d) to § 602.20(i).

§ 602.21 Review of Standards

Statute: Section 496(a)(5) states that accrediting agencies must establish standards of accreditation to assess the institution's success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs; curricula;

⁹Dear Colleague Letter GEN-23-14 Regulations Governing the Recognition of Accrediting Agencies, Institutional Eligibility, and Arbitration—<https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2023-11-03/regulations-governing-recognition-accrediting-agencies-institutional-eligibility-and-arbitration-updated-dec-5-2023>.

faculty; facilities, equipment, supplies; fiscal and administrative capacity; student support services; recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising; program length and credentials; student complaints; and record of compliance.

Current Regulations: § 602.21(a) requires an accrediting agency to maintain a comprehensive systematic program of review that involves all relevant constituencies, and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and is relevant to the educational or training needs of students. § 602.21(b) requires that an accrediting agency review follow specific procedures outlined in that paragraph. § 602.21(c) requires that changes to an accrediting agency's standards be initiated with 12 months and that such action must be completed within a reasonable period of time. Finally, § 602.21(d) prescribes the process an accrediting agency must complete prior to finalizing any changes to its standards.

Proposed Regulations: We propose to amend § 602.21(a) to require an accrediting agency to maintain a comprehensive systematic program of review that occurs at regular intervals, involves all relevant constituencies (including students), and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and is relevant to the educational or training needs of students. We propose to rescind paragraphs (b), (c), and (d) of this section.

Reasons: We propose to amend 602.21 to add a condition that the review of standards occur at regular intervals. This will ensure that accrediting agencies continually and consistently review standards dynamically. As technology advances and approaches to education inevitably shift, accrediting agencies should be at least reviewing standards regularly to ensure that students are receiving the most relevant and high-quality education as possible. Without regular review of standards, an accrediting agency and institutions that it accredits could become obsolete and ineffective in producing positive outcomes. An ineffective and outdated accrediting agency is not a good use of taxpayer dollars via the institutions or programs it accredits and may leave students without a good return on investment and with insurmountable student loan debt that they may struggle to repay debt. The inclusion of students

in the reviews by the accrediting agency was a suggestion by a negotiator during rulemaking. The negotiator believed that students should serve a mandatory role in reviewing standards by which accrediting agencies will evaluate institutions. Several negotiators noted that students are often already included in reviews of institutions and programs, therefore this addition may be inconsequential.

The Department proposes rescinding paragraphs (b), (c), and (d) to remove prescriptive regulations that are not based on statute. Removing these paragraphs eliminates burdensome and complex regulations that are not only difficult for accrediting agencies to implement but also difficult for the Department to enforce. The regulations continue to retain the statutory requirement for accrediting agencies to regularly review their standards which, in totality, affords them the flexibility to innovate but also maintain the guardrails of a regular review process. Note that because only one paragraph remains in the section, we would not keep the remaining paragraph labeled as (a), instead there will not be paragraph indicators in the section.

§ 602.22 Substantive Changes and Other Reporting Requirements

Statute: Section 496(c)(1) states that no accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subsection, unless the agency or association performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (which may include unannounced site visits) with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities, including those regarding distance education.

Current Regulations: The current regulations under § 602.22 detail and define substantive change policies and other institutional reporting requirements. Current § 602.22(a)(1) requires that if the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards and defines actions that are considered a substantive change. Current § 602.22(b) specifies that institutions

that have been placed on probation or equivalent status, have been subject to negative action by the agency over the prior three academic years, or are under a provisional certification, as provided in 34 CFR 668.13, must receive prior approval for the certain additional changes and that all other institutions must report the changes described within this subsection within 30 days to their accrediting agency. Current § 602.22(c) explains that institutions that have successfully completed at least one cycle of accreditation and have received agency approval for the addition of at least two additional locations as provided in paragraph (a)(1)(ii)(H) of this section, and that have not been placed on probation or equivalent status or been subject to a negative action by the agency over the prior three academic years, and that are not under a provisional certification, as provided in 34 CFR 668.13, need not apply for agency approval of subsequent additions of locations, and must report these changes to the accrediting agency within 30 days, if the institution has met criteria established by the agency indicating sufficient capacity to add additional locations without individual prior approvals, including, at a minimum, satisfactory evidence of a system to ensure quality across a distributed enterprise. Current § 602.22(d) requires the agency to have an effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations approved under paragraphs (a)(1)(ii)(H) and (I) of this section. Current § 602.22(e) allows the agency to determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, on which the change is included in the program's or institution's grant of accreditation or preaccreditation. The date of prior approval must not pre-date either an earlier agency denial of the substantive change, or the agency's formal acceptance of the application for the substantive change for inclusion in the program's or institution's grant of accreditation or preaccreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. An agency may require a visit before granting approval. Current § 602.22(f) specifies that except as provided in paragraph (c) of this section, if the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV,

HEA programs, the agency's procedures for the approval of an additional location that is not a branch campus where at least 50 percent of an educational program is offered must include visits and mechanisms to ensure education quality. Current § 602.22(g) explains that the purpose of the visits described in paragraph (f) of this section is to verify that the additional location has the personnel, facilities, and resources the institution claimed it had in its application to the agency for approval of the additional location. Finally, current § 602.22(h) requires that the agency's substantive change policy defines when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

Proposed Regulations: The Department proposes to add language to § 602.22(a)(1)(i) to refer to a revised subparagraph in § 602.22(a)(1)(ii). The proposed revision to § 602.22(a)(1)(ii) strikes the language "high-impact, high-risk changes, including". We propose to amend § 602.22(a)(1)(ii)(B) to insert the phrase "that results in a change in control". We propose to move the current § 602.22(a)(1)(ii)(E) to § 602.22(b)(1). The current § 602.22(a)(1)(ii)(F) would become the new § 602.22(a)(1)(ii)(E) and would be amended to move the portion of this subsection stating "A substantial increase in the number of clock hours or credit hours awarded, or" to § 602.22(b)(2). The current § 602.22(a)(1)(ii)(G) would become the new § 602.22(a)(1)(ii)(F) and would be amended to add "not otherwise reviewed as part of a change of control transaction or the process for the addition of a location" to the existing text. In current § 602.22(a)(1)(ii)(I) we propose to strike the text "agency's review", "include assessment of the institution's" and "the regular evaluation of locations". In § 602.22(a)(1)(ii)(I)(1) we propose to strike "is clearly identified." In § 602.22(a)(1)(ii)(I)(4) we propose to strike "engaged in long-range" and "expansion" and add "appropriate" and "the addition" in their place. We propose to add a new § 602.22(a)(1)(ii)(K) to state the "Addition of the first prison education program at the first two additional locations and the first additional prison education program offered by a new method of delivery." The remaining changes to § 602.22(a)(1) would be conforming to renumber amended or removed sections. In § 602.22(b) we

propose to strike the current § 602.22(b)(1), § 602.22(b)(2), and § 602.22(b)(3). The new § 602.22(b)(1) and (2) are those elements moved from § 602.22(a)(ii)(E) and (F), respectively. In § 602.22(c) we propose to strike § 602.22(c)(1)–(5). We propose to strike § 602.22(d) entirely. We propose to redesignate current § 602.22(e) to § 602.22(d) and strike "Except as provided in paragraphs (d) and (f) of this section, an agency may require a visit before granting such an approval." We propose to strike § 602.22(f) and § 602.22(g) entirely. Finally, we propose to redesignate § 602.22(h) to § 602.22(e) for conforming and renumbering purposes.

Reasons: We propose to amend § 602.22(a)(1)(i) to specify the revised definition(s) of substantive change, as detailed in proposed § 602.22(a)(1)(ii)(A) through (K). We propose to amend § 602.22(a)(1)(ii) so that the definition of substantive change applies to a more precise set of situations, arrives at a better balance of needed oversight, and returns some degree of deference to the agencies to make the decisions on what the substantive changes are and how they are processed. We recognize the burden institutions and accrediting agencies face when implementing and overseeing these changes and propose amending § 602.22(a)(1)(ii)(A) through (K) to reduce this burden. We propose to amend § 602.22(a)(1)(ii) to simplify the types of changes considered substantive. We propose to amend § 602.22(a)(1)(ii)(B) to narrow its scope to changes that result in a change of control. This would reduce burden for reviewing changes in legal status, forms of control or ownership that would not lead to a true change of control. We propose moving current § 602.22(a)(1)(ii)(E) and (F) to § 602.22(b)(1) and (2) to only require notification for these changes that do not require accrediting agency approval for Federal student aid eligibility purposes. We propose amending current § 602.22(a)(1)(ii)(G) to require the acquisition of any other institution, program, or location of another institution only if it was not otherwise reviewed as part of a change of control transaction or the process for the addition of a location. This proposed amendment reflects discussions held during negotiated rulemaking that concluded the current requirement to report this as a separate substantive change is cumbersome for both accrediting agencies and institutions. It was recommended by negotiators that this language be revised to only apply

when an acquisition is not otherwise captured in a change of control or separate location substantive change review. We propose amending current § 602.22(a)(1)(ii)(I) based on a recommendation from a negotiator to streamline, simplify, and lessen burden on accrediting agencies by requiring the institution to document its fiscal and administrative capability to operate the location or branch campus, instead of the accrediting agency. The institution still must verify and document that it has appropriate plans for the addition of the new location or branch campus. We propose adding a new § 602.22(a)(1)(ii)(K) to formally address and include the prison education programs (PEP) brought about by the FAFSA Simplification Act. This regulatory addition is required under § 668.237(b) and ensures the addition of specified PEP programs will be considered a substantive change and must be treated in accordance with § 602.22. We further propose to amend § 602.22(a) to remove prescriptive regulations that are not based on statute but still retain the best practices in requiring institutional accrediting agencies to review substantive changes. We propose to amend § 602.22(b) to accommodate § 602.22(b)(1) and (2), which were moved from § 602.22(a)(ii)(E) and (F). The remaining deletions in § 602.22(b) are intended to reduce burden and streamline the functions of reporting changes and wait time for approvals regarding innovative approaches in core academic functions (e.g., delivering instruction, modifying courses, assuming competencies). The remaining proposed deletions in § 602.22(c) through § 602.22(g) are intended to reduce the barriers that limit institutions from adopting innovative practices that advance credential and degree completion and spur new models of education. These proposals are in direct support of E.O. 14279 and are designed to improve accountability while streamlining required quality assurances. The final changes in § 602.22 are conforming and allow for new numbering and proper organization of the regulation.

§ 602.23 Operating Procedures All Agencies Must Have

Statute: Section 496(c) of the HEA prescribes accrediting agency operating procedures, which include requirements for public disclosure of relevant information.

Current Regulations: The current regulations under § 602.23 prescribe operating procedures that accrediting agencies must adhere to. Under § 602.23(c) the accrediting agency must

review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program or the agency's own standards or procedures and take follow-up action. Under § 602.23(d) the accrediting agency must ensure that the institution or program accurately discloses its accreditation status and provides the name and contact information for the accrediting agency. The regulations under § 602.23(f) prescribe the procedural requirements for institutions or programs granted preaccreditation by an accrediting agency. The same paragraph confirms that all credits and degrees earned and issued by an institution or program holding preaccreditation from a nationally recognized accrediting agency are considered by the Department to be from an accredited institution or program.

Proposed Regulations: We propose to include preaccredited institutions under the requirements of paragraph § 602.23(c)(1). Under paragraph § 602.23(c)(3) we proposed to include a requirement to review conflicts of interest and mandate documentation of actions when an accrediting agency reviews a complaint. The proposed would read that the accrediting agency must (1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited or preaccredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has a sufficient opportunity to provide a response to the complaint, (2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review, and (3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself, to include conflict of interest violations, and take follow-up action, as appropriate, based on the results of its review, and document such complaints and actions.

The Department proposes to amend § 602.23(d) to require that the accrediting agency must require its accredited institutions or programs to publicly disclose any action by the agency that begins the enforcement timeline in § 602.20(a) or (b). When an institution or program makes such a disclosure or elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately,

including the specific academic or instructional programs covered by that status, the reason(s) for the action, and the name and contact information for the agency.

We propose to rescind paragraph § 602.23(f)(1) and modify the remaining language (formerly § 602.23(f)(2)) to refer to "credentials" instead of "degrees". The proposed language would require that all credits and credentials earned and issued by an institution or program holding preaccreditation from a nationally recognized agency are considered by the Secretary to be from an accredited institution or program.

We propose to add new paragraphs § 602.23(h)–(l). Under proposed § 602.23(h), the agency must not have policies that require institutions or programs to violate any Federal or State law, including Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.* (Title IX), which means among other things, that agencies must not have policies that require institutions or programs to provide unlawful preferences to students, faculty, staff, contractors, or any employees based upon their race, color, national origin, or sex, including in admissions, hiring, and the selection of contracts.

Under proposed § 602.23(i), the agency must have internal controls to ensure compliance with antitrust laws, including by ensuring that the agency does not directly or indirectly facilitate coordination or collusive activities among institutions or programs that violate the antitrust laws, or unnecessarily restrict access to employment in an occupation.

Under proposed § 602.23(j), the agency must refrain from reviewing aspects of institutional governance of public institutions that are established by State law, including the appointment of institutional directors or officers by elected or appointed State officials.

Under proposed § 602.23(k), the agency may have a timely procedure to accelerate the comprehensive accreditation process for an institution or program seeking initial accreditation. An institution or program would be eligible to access this process if, at a minimum, it holds current accreditation from another nationally recognized accrediting agency and meets the requirements of § 600.11 or is impacted by a decision by the senior Department official or the Secretary to terminate an agency's recognition.

Under proposed § 602.23(l), the agency must establish and maintain at

least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency any concerns related to the agency's accreditation standards or the institution's or program's compliance. Such mechanism(s) must be designed to ensure that information received is substantive and manageable in volume. Permissible mechanisms include, but are not limited to, any one or more of the following: (1) A registration process through which students, staff, or faculty may sign up to participate in structured meetings with agency representatives during scheduled site visits or virtual visits, subject to reasonable limits on the number of participants and appointment availability; (2) Randomized panels of students, staff, or faculty selected by the accrediting agency or its authorized representatives to participate in confidential interviews or focus groups during site visits, conducted in a manner that ensures a representative cross-section of the institutional community; or (3) Student, faculty, staff surveys independently administered by the agency as part of an initial or renewal of accreditation process which minimally address the standards areas required by § 602.16 (a).

Reasons: We propose to add preaccredited institutions to the requirements under § 602.23(c)(1) to clarify that complaints received against a preaccredited institution must also be reviewed in a timely, fair, and equitable manner. Similarly, under § 602.23(c)(3) the Department seeks to clarify that all complaints, including those related to conflicts of interest, about the accrediting agency itself must be reviewed and documented in a timely, fair, and equitable manner.

We proposed adding additional language to § 602.23(d) regarding an institution's or program's public disclosure of actions by the accrediting agency to promote transparency and consistency amongst accrediting agencies. The specific actions that would be required to be disclosed include any action that cites non-compliance with any standard from an institution or program, no matter the form of the notice. Further, we believe that accrediting agencies must review an institution's or program's public disclosure of its accreditation or preaccreditation status to ensure that the institution or program is accurately representing itself to prospective and enrolled students.

We propose to rescind the requirements under § 602.23(f)(1)

because they are not required by statute. We also propose to change the term “degrees” to “credentials” in regard to the recognition of credentials from a preaccredited institution because credentials is a broader term that could encompass the successful completion of other programs which would implement E.O. 14279’s direction that the Department reduce barriers limiting institutions from adopting practices that advance credential and degree completion and encourage new models of education. By referring broadly to “credentials” rather than only “degrees,” the regulations recognize the growing importance of certificates and other high-value postsecondary credentials that prepare students for employment and further education. The Department does not believe that non-degree program credentials from preaccredited institutions are viewed by the public, State agencies, and other entities as the same quality as those received from an accredited institution. We believe that this language will help confirm to employers that credentials from preaccredited institutions carry the same validity and legitimacy as credentials from accredited institutions.

E.O. 14279 states that “accreditation requires higher education institutions to provide high-quality, high-value academic programs free from unlawful discrimination or other violations of Federal law” and in order to effectuate this E.O., it states that the Department must “mandate that accreditors require member institutions to use program-level data on student outcomes to improve such outcomes, without reference to race, ethnicity, or sex”. To codify the requirements of E.O. 14279, we propose paragraph § 602.23(h) to prohibit accrediting agencies from having policies that violate Federal or State law, including Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.* (Title IX).

The Trump Administration has sought to eliminate illegal diversity, equity and inclusion requirements throughout the Federal government and its programs, demonstrated in E.O.s 14151¹⁰ and 14398.¹¹ These proposed regulations represent a continuation of those efforts. We believe that all

students, faculty, staff, contractors, and employees should be held to the same standards regardless of their demographics in admissions, as well as the hiring and selection for contracts. We propose a prohibition of preferential treatment based on protected characteristics, such as race-based scholarships or programs, and preferential hiring or promotion practices. Merit must be prioritized over race, color, national origin, or sex, traits which do not provide any characterization of suitability or preparedness for study or employment.

Rationale for the antitrust provision under paragraph § 602.23(i) can be found in the discussion for § 602.13. We propose § 602.23(j) to direct accrediting agencies to refrain from interfering with institutional governance decisions that fall within the rightful purview of State governments, boards of trustees, or similar governing bodies, limiting their role to advisory purposes only. We propose § 602.23(k) codify that an agency may prioritize the accreditation of an institution or program changing accrediting agencies if it meets the factors outlined in regulation. While an agency is not required to prioritize the accreditation of an institution or program, the Department wanted to add language that would provide support for agencies that chose to prioritize in this manner. As accrediting agencies are one part of the title IV eligibility process for an institution, we want to encourage continuity of access for students when an institution seeks to change accrediting agencies so that there is a seamless transition. These regulations encourage new, innovative accrediting agencies to seek recognition from the Department, which will increase competition and quality of agencies, therefore, we expect that some institutions may seek out new accrediting agencies under the proposed regulations. We propose § 602.23(l) to mandate that there be a direct line of communication between impacted stakeholders which include students, staff and faculty and the accrediting agency to express concerns in addition to the formal complaint process already mandated under § 602.23(c). By adding this process for stakeholders to express concerns directly to the accrediting agency, it may be able to address concerns and adjust its policies or procedures to avoid receiving formal complaints regarding its accredited or preaccredited institutions or programs. We also believe that the accrediting agency should continuously receive feedback from impacted stakeholders about how the institution or program is

implementing the agency’s standards to ensure that institutions do not impose additional standards or misrepresent the accrediting agency’s standards to stakeholders. We propose that accrediting agencies have flexibility in effectuating this requirement.

§ 602.24 Additional Procedures Certain Institutional Agencies Must Have

Statute: Section 496(c)(3) of the HEA requires an institution to submit a teach-out plan to its accrediting agency for approval when the Department notifies the accrediting agency of an action against the institution, the accrediting agency acts to withdraw, terminate, or suspend the accreditation of the institution, or the institution notifies the accrediting agency that the institution intends to cease operations. Section 496(c)(5) of the HEA requires the accrediting agency to conduct an on-site visit within six months of a branch campus opening or following a change in ownership. Section 496(c)(6) of the HEA specifies that teach-out agreements must receive explicit approval from the accrediting agency and conform to its standards. Section 496(c)(9) of the HEA requires accrediting agencies to verify that institutions maintain publicly disclosed transfer of credit policies, including clearly articulated criteria for evaluating and accepting credits earned at other institutions of higher education.

Current Regulations: Current § 602.24(b) states that an accrediting agency must conduct an on-site visit no later than six months after the establishment of a branch campus or a change of ownership or control. Current § 602.24(c)(1) provides that the accrediting agency must require an institution it accredits to submit a teach-out plan (as defined in 34 CFR 600.2) to the agency for approval upon the occurrence of specific events, to include when an institution is participating in title IV, HEA programs under a provisional program participation agreement and the Secretary has required a teach-out plan as a condition of participation. Current § 602.24(c)(2) requires an institution to submit a teach-out plan and, if practicable, teach-out agreements (as defined in 34 CFR 600.2) to the accrediting agency for approval when the Department imposes monitoring or enforcement, when accreditation is at risk, when the institution plans to close, or when State authorization is revoked. Current § 602.24(c)(3) states that an accrediting agency must evaluate an institution’s teach-out plan to ensure it includes a list of currently enrolled students, academic programs offered by the

¹⁰ Ending Radical and Wasteful Government DEI Programs and Preferencing—<https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>.

¹¹ Address DEI Discrimination by Federal Contractors—<https://www.whitehouse.gov/presidential-actions/2026/03/addressing-dei-discrimination-by-federal-contractors/>.

institution, and the names of other institutions that offer similar programs and that could potentially enter into a teach-out agreement with the institution. Current § 602.24(c)(4) states that if the agency approves a teach-out plan that includes a program or institution that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval. Current § 602.24(c)(6) lists criteria closing institutions must have their teach-out agreements. Current § 602.24(c)(7) requires the accrediting agency to confirm that an institution's teach-out agreement meets certain criteria before approving the agreement. Current § 602.24(c)(10) requires an institution to provide copies of all notifications related to the institution's closure or teach-out options. Current § 602.24(d) states that if an institution closes without a teach-out plan or agreement, the accrediting agency is required to work with the Department and the appropriate State agency to assist students in finding reasonable opportunities to complete their education without additional charges. Current § 602.24(e) requires an institution to have transfer of credit policies that are publicly disclosed in accordance with § 668.43(a)(11) and include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

Proposed Regulations: The Department proposes to amend § 602.24(b) to clarify that site visits to new branch campuses or following a change in ownership cannot be conducted solely by agency staff. The Department proposes to amend § 602.24(c)(1) to require an institution to submit a teach-out plan to its accrediting agency within 30 days when certain events occur. The Department proposes to amend § 602.24(c)(1)(iii) to require an institution to submit a teach-out plan after its accrediting agency is notified that the institution's participation in the title IV, HEA programs has changed from full to provisional certification. The Department proposes to remove "plan and, if practicable, teach-out" from current § 602.24(c)(2) and add "unless the institution is completing its own teach-out" at the end of current § 602.24(c)(2)(iv). The Department proposes adding a new § 602.24(c)(3) to allow an institution that is unable to secure a teach-out agreement to document the reasons it cannot do so, and in such cases, require the institution to provide financial protection.

The Department proposes to renumber § 602.24(c)(3)–(10) and amend new § 602.24(c)(4) to require institutions to explain how they plan to maintain and provide students with access to their transcripts in the event of closure. The Department also proposes to add the phrase "or a teach-out agreement" to new § 602.24(c)(5) and remove the word "closing" in current § 602.24(c)(6), the additional criteria in current § 602.24(c)(7), and the entire paragraph in current § 602.24(c)(10).

The Department proposes to amend § 602.24(d) to clarify the responsibilities an accrediting agency must fulfill when one of its institutions does not have a teach-out plan. The Department proposes that an accrediting agency work with institutions to secure teach-out agreements and to secure transfer options for institutions that cannot arrange a teach-out agreement. The Department also proposes for accrediting agencies to have teach-out or transfer options, the terms of such options, and information on obtaining transcripts, loan discharges, and reimbursement publicly available on their website, and to share such information with appropriate State agencies and, as applicable, with other recognized accrediting agencies.

The Department proposes to amend § 602.24(e) to require institutions to include additional specified criteria in their transfer of credit policies. Such criteria include the public disclosure of general policies for specific academic standards, time limits, and curricular requirements for acceptance of credits, and a comprehensive statement of all transfer of credit criteria established by the institution, which must consider the comparability and applicability of coursework completed or credit earned at another institution accredited by an agency recognized by the Secretary. The Department proposes to prohibit an institution from denying transfer of credit based on the institution at which the student completed the coursework or the agency that accredits that institution, so long as the agency is recognized by the Secretary. The Department also proposes for the institution to utilize a presumption of awarding transfer credit for undergraduate programs for coursework that has been successfully completed at another institution, accredited by an agency recognized by the Secretary, and comparable in content and learning outcomes to the institution's own course offerings, unless the institution provides a written basis for denial under 34 CFR 668.43(c)(4) in accordance with its academic standards or curricular requirements. Lastly, the Department

proposes that an institution be required to provide the student with an opportunity to appeal the decision within 15 calendar days of receipt of the institution's written notification if an institution declines to award transfer credit.

Reasons: The Department proposes to require a site visitor alongside accrediting agency staff during on-site visits to preserve the independence, integrity, and credibility of the accreditation process. As mentioned in negotiated rulemaking, this requirement would codify what is already being done during site visits to be applied consistently across agencies. For example, having a peer or independent reviewer alongside accrediting agency staff would help the evaluation reflect professional expertise and perspectives that extend beyond accrediting agency staff alone. Peer reviewers bring field specific knowledge that allows them to assess academic standards, administrative capacity, and institutional practices with appropriate depth. Independent reviewers, likewise, help the accreditation process not be unduly influenced by an agency's internal perspectives or by longstanding relationships with institutions.

The Department proposes a 30-day deadline to submit a teach-out plan as the occurrence of any of the events that require a teach-out plan are time-sensitive and could result in an institutional closure. The Department also clarifies the language for when a shift from full to provisional certification occurs because such a shift is an early warning that an institution may have an increased risk of closure, and having a plan in place would quickly help safeguard students, prevent administrative gaps if conditions worsen, strengthen oversight, and reinforce existing responsibilities for transcript access and coordinated closure planning.

The Department proposes to remove the phrasing "plan and, if practicable, teach-out" and add "or a teach-out agreement" in § 602.24(c)(2) to eliminate ambiguity, clearly distinguish between plans and agreements, and ensure accrediting agencies apply teach-out requirements consistently and effectively. We heard from negotiators that the current wording blurs the distinction between teach-out plans and teach-out agreements and creates uncertainty in situations where institutions face rapid or unanticipated closure, therefore we propose to require teach-out agreements for certain operational or financial events, such as abrupt changes in ownership, major compliance findings, severe financial

deterioration as such events present heightened risks of institutional disruption and student harm. The Department believes having teach-out agreements in place would provide students with a clear, reliable pathway to continue their education without interruption and encourage institutions to plan proactively for continuity of instruction when facing circumstances that materially threaten their ability to operate. The Department also proposes to add “unless the institution is completing its own teach-out” to make explicit that an institution conducting its own orderly teach-out should not also be required to develop a separate external teach-out agreement.

The Department proposes to allow an institution that cannot secure a teach-out agreement within 30 days to document the reasons it cannot do so since some institutions, such as those offering programs with limited transferability or operating in geographic areas with few comparable institutions, may face challenges in securing such agreements. In these cases, financial protection such as a letter of credit would serve as an essential safeguard for resources to be available to support students in the event of closure. The Department also proposes requiring that teach-out plans include a clear process for maintaining and providing access to student transcripts to help affected students transfer credits, obtain licensure, apply for jobs, and continue their education if an institution closes.

Additionally, the Department proposes to remove the word “closing” in current § 602.24(c)(6) for accrediting agency obligations to not only apply when an institution is formally closing, but whenever a teach-out agreement is required. The Department proposes to remove the criteria listed in current § 602.24(c)(7) because the provisions extend beyond what the HEA requires for teach-out agreements and therefore lack a statutory foundation. The HEA establishes the core requirements for accrediting agencies when evaluating teach-out agreements, but it does not authorize the Department to impose other criteria unrelated to the statutory framework. By removing the additional criteria, the Department would avoid imposing unsupported or unnecessary burdens on institutions and accrediting agencies and maintain clear alignment between statutory and regulatory requirements. Similarly, the Department also proposes to remove § 602.24(c)(10) as it is not supported by statute and imposes unnecessary prescriptive oversight on accrediting agencies.

The Department proposes establishing explicit expectations for accrediting agencies to coordinate with both the Department and State agencies during an institutional closure to improve the effectiveness, timeliness, and consistency of student protection efforts. Closures demand fast, accurate, and coordinated action across the Federal-State-accrediting agency triad and since State notifications, institutional withdrawal notices, and teach-out processes are already intertwined, greater collaboration would help students receive timely protections, access to teach-out options, clear information, and continuity of records.

The Department proposes new transfer of credit requirements to address longstanding inequities and inconsistencies in how institutions evaluate credits earned at other institutions accredited by an agency recognized by the Department. Section 496(c)(9) of the HEA requires accrediting agencies to verify that institutions maintain publicly disclosed transfer of credit policies, including clearly articulated criteria governing the evaluation and acceptance of credits earned at other institutions of higher education. Congress therefore recognized that transfer of credit policies are an appropriate subject of review by an accrediting agency and that transparency regarding those policies is an important component of educational quality and student protection. Consistent with the Secretary’s authority under section 496 of the HEA to establish recognition criteria for accrediting agencies, the Department proposes requirements designed to ensure that accrediting agencies evaluate whether institutions administer transfer of credit policies in a transparent, academically grounded, and consistently applied manner.

The Department clarifies that the transfer of credit provisions are intended to apply primarily to undergraduate credit, reflecting the reality that most student mobility and credit transfer activity occurs at the undergraduate level. The Department has observed that credit transfer decisions are often made using criteria that are not fully disclosed to students or that rely primarily on the identity of the sending institution or its accrediting agency rather than on the academic quality of the coursework completed. Such practices may unnecessarily delay degree completion, require students to repeat substantially equivalent coursework, increase educational costs and borrowing, reduce student mobility, and discourage innovation by limiting

students’ ability to move among institutions accredited by different nationally recognized accrediting agencies. These consequences are inconsistent with the Administration’s objectives of reducing unnecessary costs, promoting innovation, encouraging competition among institutions and accrediting agencies, and improving educational value for students. Accordingly, the Department proposes to require institutions to publish transfer of credit policies that clearly describe the academic standards, time limits, curricular requirements, and other criteria used when evaluating transfer coursework. Public disclosure of these standards would provide students with accurate information before enrollment, promote consistent institutional decision making, and enable accrediting agencies to determine whether institutions are applying their own published policies faithfully and consistently.

The Department further proposes that institutions are not permitted to deny transfer credit solely because coursework was completed at another institution accredited by a different accrediting agency recognized by the Secretary. The Department believes that decisions based solely on institutional identity or the identity of a nationally recognized accrediting agency, rather than on academic considerations, are inconsistent with the purpose of maintaining published academic criteria for evaluating transfer credit and unnecessarily limit student mobility and institutional competition. Nothing in these proposed regulations, however, requires an institution to disregard its own academic standards or curricular requirements.

The Department also proposes to require institutions to award transfer credit for undergraduate coursework completed at another institution accredited by an agency recognized by the Secretary when, after application of the institution’s published academic standards and curricular requirements, the institution determines that the coursework is comparable in content and learning outcomes to its own offerings. Institutions retain full responsibility for determining academic comparability, including consideration of subject matter, learning outcomes, sequencing, laboratory requirements, program coherence, and other legitimate academic considerations. When an institution concludes that transfer credit should not be awarded, it must provide the student with a written explanation identifying the academic basis for the decision, consistent with the institution’s published policies. These

requirements are intended to promote transparency, consistency, and accountability while preserving institutional responsibility for academic quality and curricular integrity.

Finally, the Department proposes to require institutions to provide students with a meaningful opportunity to appeal credit transfer determinations when denied. An appeals process promotes consistent application of published institutional standards, allows institutions to consider additional academic information that may not have been available during the initial review, and improves confidence that credit transfer decisions are based on legitimate academic considerations rather than undisclosed or inconsistently applied criteria. The Department believes these proposed requirements appropriately implement section 496(c)(9) of the HEA by establishing expectations for accrediting agencies to evaluate whether institutions maintain, disclose, and consistently administer academically grounded transfer of credit policies while preserving institutional authority to determine academic equivalency and educational quality.

§ 602.25 Due Process

Statute: Section 496(a)(6) of the HEA states an accrediting agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures.

Current Regulations: Current regulations under 34 CFR 602.25 prescribe that an agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process.

One of the requirements, under 34 CFR 602.25(f), provides that the accrediting agency must provide an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final. The appeal must take place at a hearing before an appeals panel that must meet several requirements. The hearing may not include current members of the agency's decision-making body that took the initial adverse action. It must be subject to a conflict of interest policy. It cannot only serve only an advisory or procedural role, and must have and use the authority to affirm, amend, or remand adverse actions of the original decision-making body. A decision to affirm or amend the adverse action is implemented by the appeals panel or by

the original decision-making body, at the agency's option; however, in the event of a decision by the appeals panel to remand the adverse action to the original decision-making body for further consideration, the appeals panel must explain the basis for a decision that differs from that of the original decision-making body and the original decision-making body in a remand must act in a manner consistent with the appeals panel's decisions or instructions.

Proposed Regulations: We propose to rescind paragraphs 602.25(f)(1)(iii) and (iv), which require an appeals panel to not only serve an advisory or procedural role and instead have authority, and that the appeals panel affirms, amends, or remands the adverse action.

Reasons: These rescissions would remove prescriptive regulations that are not required in the HEA. These changes would implement one of the orders under E.O. 14279 that directed the Department to reduce unduly burdensome requirements to accrediting agencies. Section 496(a)(6)(C)(i) and (ii) of the HEA only states that if an accrediting agency takes an adverse action against the institution or program, prior to such action becoming final the agency must provide for an opportunity to appear at a hearing before an appeals panel that—“(i) shall not include current members of the agency's or association's underlying decision-making body that made the adverse decision; and (ii) is subject to a conflict of interest policy.” These provisions are covered in § 602.25(f)(1)(i) and (ii).

§ 602.26 Notification of Accrediting Decisions

Statute: Section 496(a)(6) of the HEA states an accrediting agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures. Section 496(a)(7) of the HEA states that an accrediting agency or association shall notify the Secretary and the appropriate State licensing or authorizing agency within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution. Section 496(a)(8) of the HEA states that an accrediting agency such agency or association shall make available to the public, upon request, and to the Secretary, and the State licensing or authorizing agency a

summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

Current Regulations: Current regulations require that accrediting agencies must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. Under § 602.26(a), an agency must provide written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision to award initial accreditation or preaccreditation to an institution or program or to renew an institution's or program's accreditation or preaccreditation.

Under § 602.26(b), an agency must provide written notice of a final decision of a probation or equivalent status or an initiated adverse action to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision and requires the institution or program to disclose such an action within seven business days of receipt to all current and prospective students.

Under § 602.26(c), an agency must provide written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision: a final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program or a final decision to take any other adverse action, as defined by the agency, not listed above. An agency must provide written notice to the public of the decisions listed in (b) and (c) within one business day of its notice to the institution or program. For any decision listed in (c), the institution or program must disclose the decision to current and prospective students within seven business days of receipt and makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the official

comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment.

Under paragraph (g), the agency must also notify the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and, upon request, the public if an accredited or preaccredited institution or program decides to withdraw voluntarily from accreditation or preaccreditation, within 10 business days of receiving notification from the institution or program that it is withdrawing voluntarily from accreditation or preaccreditation; or lets its accreditation or preaccreditation lapse, within 10 business days of the date on which accreditation or preaccreditation lapses.

Proposed Regulations: We propose to amend § 602.26(b) to require a decision letter or clear explanation in writing that explains the reasons for the final decision. We propose to amend § 602.26(c) to require a decision letter or clear explanation in writing of final decisions when a final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program or when a final decision to take any other adverse action, as defined by the agency, not listed. We also propose to amend § 602.26(d) to require that for decision listed above, the agency must update its website directory of accredited institutions or programs to note the decision within one business day of its notice to the institution or program. We further propose to amend § 602.26(e) to require an agency's decision letter or clear explanation instead of a brief summary statement of the reasons for the agency's decision and the official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment. We propose to add a new § 602.26(f) that requires an agency to maintain on its website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years, including in the agency's decision letter required pursuant to subparagraphs (b), (c), and (e) above. We propose to redesignate current § 602.26(f) to § 602.26(g) to allow for the new § 602.26(f) above. Finally, we propose adding a new § 602.26(h) to state that if the agency issues a final decision to withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of the

institution, and the institution challenges this final decision, the Department may continue to provide access to title IV, HEA programs to an institution until both arbitration and judicial review has concluded or until relief is denied, whichever occurs first, if failure to do so would result in immediate, irreparable harm to the institution. We propose to make it clear that this provision would not authorize the Department to nullify agency decisions that are made in a manner consistent with the agency's standards, even if the Department disagrees with said decision.

Reasons: The changes to § 602.26(b), (c), (d) and (e) are designed to improve and clarify the notice requirements (e.g., clear explanations in lieu of brief summarizing statements) and to bring the overall notification process in line with current methods of disclosure and notification (e.g., ubiquitous websites). We have added a new § 602.26(f) to broaden transparency and notification efforts/initiatives to convey all actions taken for a period of at least five years. We feel this expanded requirement will benefit any interested person or entity seeking recent accrediting agency actions at a specific institution or program. We have added a new § 602.26(h) to allow for situations where an accrediting agency issued a final decision regarding accreditation but an institution is seeking arbitration and/or judicial review. In such a situation, this new regulation would allow the Department to continue title IV, HEA funding, to the institution until the review is concluded or relief is denied, whichever comes first. This proposed regulation provides a limited opportunity for the Department to limit the effect of an adverse accrediting action while an institution is seeking arbitration and/or judicial review of the action. The remainder of the changes made to this section were conforming to allow for proper numbering.

§ 602.27 Other Information an Agency Must Provide the Department

Statute: Section 496(n)(1) of the HEA states the Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established in the HEA.

Current Regulations: The current regulations under § 602.27 require agencies to provide other information to the Department. Current § 602.27(a)(1) states that agencies must submit to the Department a list, updated annually, of

its accredited and preaccredited institutions and programs, which may be provided electronically. The remainder of the regulations under § 602.27 detail other information that agencies must submit to the Department such as year-end summaries, proposed policy changes, expansion of scope notifications for distance education and correspondence courses, etc. We are only proposing changes to § 602.27(a)(1) and the remainder of § 602.27 remains unchanged.

Proposed Regulations: We propose amending § 602.27(a)(1) to require more frequent updates of an agency's accredited and preaccredited institutions and programs, not solely an annual list. The proposed § 602.27(a)(1) requires agencies to submit regular and timely updates throughout the year on the Department's website. We propose to remove the phrase "which may be provided electronically."

Reasons: The Department wants updates regarding accredited and preaccredited institutions and programs as close to real-time as possible, thus the phrase "regular and timely updates" is used in proposed § 602.27(a)(1). The Department feels an annual update is not sufficient to appraise the Department or the public about important accreditation or preaccreditation changes to institutions and programs. We also propose to remove the phrase "which may be provided electronically" because it is no longer needed, as we expect this notification to be placed on the Department's web-based directory.

§ 602.28 Regard for Decisions of States and Other Accrediting Agencies

Statute: Section 496(l)(2) of the HEA establishes the requirements if the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in the HEA or is otherwise not in compliance with the requirements of the HEA.

Current Regulations: Current § 602.28 addresses how accrediting agencies take into account negative decisions or adverse actions by States and other recognized accrediting agencies in the review of their accredited and preaccredited institutions and programs. Current § 602.28(d) states that if the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or

preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or show cause.

Proposed Regulations: The Department proposes to amend § 602.28(d) only. We propose to add language to specifically add actions to a program that is accredited or preaccredited by the agency to fall under the required review. We propose to strike “by another recognized accrediting agency” and add language that expands applicability to institutions or programs that have been the subject of similar negative or adverse action by a State agency or Federal agency, as well as another recognized accrediting agency. We also propose to replace “show cause” with “an equivalent status”.

Reasons: The Department proposes to amend § 602.28(d) to more precisely specify that programs, not just institutions, are subject to review by an agency in situations where another recognized agency has initiated an adverse action or placed a program on probation or an equivalent status. This provision promotes program quality and accountability by requiring comprehensive review and discouraging changes of accrediting agencies for the purpose of evading minimum accreditation standards. We also propose expand the other recognized agencies to include State and Federal agencies to allow for increased accountability for institutions or programs subject to negative or adverse actions by those entities. Finally, we wish to allow agencies flexibility in placing affected institutions or programs on probation or an equivalent status, not solely a show cause status. This approach also aligns with similar language in § 602.26(b).

§ 602.30 Agency Applications and Reports To Be Submitted to the Department

Statute: Section 496(d) of the HEA states that no accrediting agency or association may be recognized by the Secretary for the purpose of this Act for a period of more than five years. Section 496(n) of the HEA states that the Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The statute requires the Secretary to conduct an independent evaluation of the information provided by such agency or

association. Included in this section are requirements related to agency applications, including requirements related to distance education and the provision of documentation. Additionally, Section 496(o) of the HEA states that the Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary’s decisions.

Current Regulations: We propose to redesignate and amend current regulations in § 602.31 to § 602.30. The current regulations in § 602.31 require that accrediting agencies must apply in writing for initial or continued recognition, submitting the application at least every five years and 24 months before their current recognition expires. Applications must include the agency’s requested scope of recognition, proof it meets the recognition criteria in § 602 subpart B (including its policies and standards), and documentation showing how it evaluates distance-education or correspondence programs if those are included in its scope. An agency requesting an expansion of scope must submit a written application that states the requested scope, provides the relevant accreditation standards and evidence of their use, and includes the materials required under § 602.32(j) and 602.32(l). If an accrediting agency is required to submit a compliance or monitoring report, it must file the report within 30 days after the compliance period ends. If an agency that has requests a change in scope to include distance education or corresponding courses reports an increase in headcount enrollment for an institution it accredits the agency must submit a report within 45 days explaining how it evaluates an institution’s ability to handle a significant enrollment increase, what caused the enrollment growth and the results of its review, and any additional information needed to show it is effectively applying recognition criteria. By applying for recognition, an accrediting agency agrees to allow the Department to observe its site visits and meetings, review any documents it needs, and access its records, staff, and facilities. Agencies must follow Federal laws when submitting materials for recognition. Before sending documents to the Department, they must redact all personally identifiable information, mark any business information they believe is confidential, and submit only required documents. The Department may request unredacted versions for review and will handle public disclosure requests under FOIA. Finally,

the Secretary may limit the length of agency submissions.

Proposed Regulations: We propose to strike the language regarding the submission timeline and concurrent submission requirements under current § 602.30(a) (proposed § 602.31(a)), insert the requirement for an accrediting agency to submit a written application to the Secretary if it seeks a contraction of scope under § 602.30(b), and insert the prohibition that an accrediting agency cannot prematurely redact business and other non-PII information in its applications and reports submitted to the Department under § 602.30(f)(1)(iii) and § 602.30(f)(2).

Reasons: The recission related to the recognition timeline in § 602.30(a) would streamline the recognition process and align with timeline changes noted in the proposed regulations in § 602.31. The proposed regulations would change the recognition process from lasting over 720 days to an estimated 240 days, reducing burden, enhancing the currency of the Department’s oversight for accrediting agencies, and focusing Department resources based on potential risk related to the distribution of title IV, HEA funds. This decreased timeline also enables nascent accrediting agencies to become recognized in a timelier manner which will enhance competition among accrediting agencies and benefit students and taxpayers. These changes would implement one of the orders under E.O. 14279 that directs the Department to resume recognizing new accrediting agencies to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes.

Including contraction of scope in § 602.30(b) would clarify that any significant change in the scope of recognition for an accrediting agency would be reviewed by the Secretary to ensure that accrediting agencies do not restrict entry into professional fields by eliminating credentials obtained at lower levels. These changes would implement one of the orders under E.O. 14279 that direct the Department reduce barriers that limit institutions from adopting practices that advance credential and degree completion and spur new models of education and prohibit accrediting agencies from engaging in practices that result in credential inflation that burdens students with additional unnecessary costs. The amendment and recission in § 602.30(f)(1)(iii) and § 602.30(f)(2) would continue to allow for accrediting agencies to identify any material believed to be exempt from public

disclosure under FOIA for later redaction prior to publication but would no longer permit agencies to prematurely redact business and other non-PII information and obscure information from Department review. These changes would implement one of the orders under E.O. 14279 that direct the Department to increase the consistency, efficiency, and effectiveness of the accrediting agency recognition review process and align the regulations with Section 496(n)(4) which states that the Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process.

§ 602.31 Procedures for Submitting Applications for Recognition and Renewal of Recognition

Statute: Section 496(d) of the HEA states that no accrediting agency or association may be recognized by the Secretary for the purpose of this Act for a period of more than five years. Section 496(n) of the HEA states that the Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Included in this section are requirements related to agency applications, including requirements related to distance education and the provision of documentation, as well as requirements for site visits by Department staff to the agency seeking recognition. Section 496(n)(2) of the HEA states that Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this title and on those agencies or associations which have been the subject of the most complaints or legal actions. Additionally, Section 496(o) of the HEA states that the Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

Current Regulations: We propose to redesignate and amend current regulations in § 602.32 to § 602.31. In the current regulations, agencies renewing recognition must, 24 months before their recognition expires, submit a list of institutions or programs they expect to review for accreditation

within the next year, along with those subject to compliance reporting. If no reviews are anticipated during that period, the agency may instead provide institutions or programs it has reviewed since its prior recognition. Agencies seeking initial recognition must meet these requirements and additionally provide letters of support from accredited institutions or programs, educators, and, where relevant, employers or practitioners, along with a letter from at least one institution intending to rely on the agency as its Federal link. Upon receiving an application, Department staff publish a **Federal Register** notice inviting public comment, then evaluates the application using all relevant information, including site visits, file reviews, public comments, and complaints. Evidence of efforts by an agency to improperly restrict professional entry may be considered negatively in the recognition review. If an agency seeking initial recognition fails to meet basic eligibility requirements, Department staff return the application and require withdrawal. Otherwise, Department staff issues a draft analysis, allows at least 180 days for agency response, and then prepares a final analysis with a compliance determination and a recommended action. The final analysis is provided to the accrediting agency and to the NACIQI no later than 30 days prior to the advisory committee meeting. Agencies may request deferral of Advisory Committee consideration if Department staff fail to provide required materials on time, unless the delay was caused by the agency. Agencies requesting an expansion of scope must submit supporting documentation, letters from institutions or programs that would seek accreditation under the expanded scope, and explanations of capacity and budget to support the expansion. Applications for expansion of scope, compliance reports, and enrollment increases are processed according to the evaluation procedures described in the regulation for renewal of recognition.

Proposed Regulations: In the proposed regulations, the Department would remove the application process for recognition or renewal of recognition that is currently identical for all agencies and instead provide specific instructions and requirements based on agency activities. Under the proposed § 602.31(a)(1), when the institutions accredited by an agency receive a substantial portion of all title IV, HEA program funds, as determined by the Secretary, the agency would be required to submit a comprehensive application

for recognition. Under the proposed § 602.31(a)(2), when not designated for review under § 602.31(a)(1) the institutional accrediting agency would submit an application demonstrating its adherence to the regulatory requirements found in §§ 602.15, 602.16, 602.17, 602.19, and 602.20, along with any additional criteria identified by Department staff. The agency would be required to attest that its policies and practices have remained in full compliance with all other criteria in subpart B since its most recent comprehensive review as well as conformity with all recognition standards beyond those addressed directly in its application. Under the proposed § 602.31(a)(3), when an accrediting agency, or any of its officers or directors, has been involved in legal actions, complaints, or other compliance matters that collectively or individually raise significant concerns about the agency's adherence to the regulatory requirements in this part, the agency would be required to submit a comprehensive application. Under the proposed § 602.31(a)(4), when a programmatic accrediting agency is not selected for review under paragraph (a)(3), it would submit an application demonstrating its compliance with the standards set forth in §§ 602.10, 602.16, 602.17, 602.19, and 602.20, as well as any additional criteria identified by Department staff. The agency would also be required to attest that, since its most recent comprehensive review, its policies and practices have remained in full compliance with all other requirements in subpart B that are not addressed in its application. Under the proposed § 602.31(a)(5), any agency described in § 602.31(a)(2) or § 602.31(a)(4) would need to submit a comprehensive application at least once every third cycle of review. Under the proposed § 602.31(a)(6), the Department would evaluate a range of considerations when reviewing an accrediting agency's performance for the purpose of determining which type of recognition review to be conducted including: whether any accredited institutions closed without required teach-out agreements; whether the Department has received serious or a high proportion of complaints regarding the agency's accredited institutions or programs; whether the agency has substantially increased the number of institutions or programs it accredits; and the number and seriousness of any noncompliance findings identified in the senior Department official's or Secretary's decision letter on the agency's renewal of recognition.

The Department would strike the current requirements in § 602.31(b) related to additional requirements that are only applicable to agencies seeking initial recognition. Under the newly proposed 602.31(b), the Department would make technical changes to the language in the section to clarify that the specific information sought in the notice concerns the performance of the agency. Additionally, the changes would expand the public's ability to comment on accrediting agency performance by requiring agencies to publish on their websites information regarding public comment related to the recognition review. Under the proposed 602.31(c), the Department would strike the date listed as it is no longer relevant. Under the proposed § 602.31(c)(1), the Department would amend the observation requirements by Department staff of an agency seeking recognition to require a site visit to the agency, which may include a file review or an observation of the agency's decision-making body meeting, an agency's visit to a member institution or program, or of other agency activity. Under the proposed § 602.31(c)(2), the Department would strike "comments and other third-party" and include "information" in place of "comments" after the remaining third-party.

Under the proposed § 602.31(d), the Department would clarify that the Department could treat certain forms of anticompetitive conduct as a negative factor when evaluating an agency's application for initial recognition, including collusive activity between an accrediting agency and related professional or membership organizations that improperly inflates the qualifications required for students to sit for licensure or certification examinations or to enter a profession through unjustified increases in education or training requirements. Under the proposed § 602.31(g)(1), the Department would require the draft staff analysis to be completed within 120 days of the submission deadline set by the Department. Under the proposed § 602.31(g)(2), the Department would provide the agency at least 90 days to submit its response. Under the proposed § 602.31(g)(2), the Department would strike "comments" and replace with "information." Under the proposed § 602.31(h), the Department would amend this section with technical changes and clarify language related to any agency failure to submit timely information would forfeit the agency's right to request a deferral. Under the proposed § 602.31(i), the Department would extend an agency's recognition

period automatically if Department staff were unable to complete their evaluation of an agency's application before the current recognition period ends. Any recommended recognition period following the extension would not be able to exceed five years of the original expiration date. The Department would strike the current §§ 602.32(j),(k),(l), and (m) and provide the relevant revisions in § 602.32.

Reasons: The changes in §§ 602.31(a)(1)–(a)(6) would allow for greater focus on the accrediting agencies that enable the flow of substantive Federal monies while ensuring all accrediting agencies are regularly reviewed in an appropriate oversight manner. The changes more directly implement the expectations in 496(n)(2) of the HEA by enabling the Department to implement a risk-based type review. The changes also offer sufficient flexibility for the Department to determine if additional criteria must be reviewed to ensure continued compliance. These changes would implement one of the orders under E.O. 14279 that direct the Department to increase the consistency, efficiency, and effectiveness of the accrediting agency recognition review process. The removal of current § 602.31(b) would ensure that accrediting agencies seeking initial recognition are not held to requirements beyond those applied to currently recognized agencies, thus meeting one of the goals of the Department to streamline the recognition process and eliminate any inappropriate barriers to recognition by implementing one of the orders under E.O. 14279 that direct the Department to reduce barriers that limit institutions from adopting practices that advance credential and degree completion and spur new models of education, and ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome. Additionally, the technical changes would clarify the language in the criteria to reflect the request for only specific information related to performance concerns of the agency. The inclusion of a new subsection under requiring accrediting agencies to post the request for third-party information from the Department on their own websites will increase the transparency of the review process and better promote the public's participation. The removal of the date from § 602.31(c) is appropriate given that the date has passed and all accrediting agencies are now required to abide by the processes noted in the section. Under § 602.31(c)(1), the

amended language would require at minimum one site visit to an agency under review for recognition, which may include a file review or an observation to an agency's decision-making body meeting, of a visit to an institution or program being reviewed, or another agency activity. The current requirement for Department staff to conduct three site visits is burdensome for accrediting agencies and the Department. These changes also implement one of the orders under E.O. 14279 that direct the Department to ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome. The rescission of the term "comment" and substitution of the term "information" in § 602.31(c)(2) is a technical edit to align with the revision to § 602.31(b). Under § 602.31(d), the Department seeks to ensure that accrediting agencies make decisions independently to prevent any conflict of interest or anticompetitive conduct. These changes also implement one order under E.O. 14279 that directs the Department to ensure accreditors are prohibited from engaging in practices that result in credential inflation that burden students with additional unnecessary costs. This change would also seek to prevent inappropriate agency decisions to improperly inflate credential for entry into any field or to sit for any field-required exam. The new timeline for review in § 602.31(g)(1) would significantly expedite the timeline for recognition reviews by requiring Department staff to review agency submissions within 120 days rather than the current 12 months. The change would implement the E.O. 14279 direction that the Department increase the efficiency of the accreditor recognition review process and resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes. The rescission of the term "comment" and expanding the language to include public and third-party information in § 602.31(g)(2) is a technical edit to align with the revision to § 602.31(b). The technical changes in § 602.31(h) would provide greater clarity to processing requirements should the accrediting agency fail to timely submit information and include confirmation that no deferral of an agency application will occur if the agency is at fault for the delay. The changes to § 602.31(i) would clarify procedures for recognition status if the Department does not complete its review prior to the expiration date of an

agency's recognition period. This change would resolve delays that could occur due to government closure or other issues that would delay the review of the agency's application and then require either an immediate determination by the Department or the creation of quasi-regulatory processes for the extension of an agency's recognition. Finally, the Department would strike (j), (k), (l), and (m) from this section as they deal with other types of reports, which are moved to § 602.32 and amended in that section.

§ 602.32 Procedures for Review of an Expansion of Scope, a Contraction of Scope, Compliance Reports, or Increases in Headcount Enrollment

Statute: Section 496(l) of the HEA states that if the Secretary makes a determination of noncompliance or ineffective application of the criteria, the Secretary may require the agency or association to take appropriate action to bring return to compliance with such requirements within a timeframe specified by the Secretary. Section 496(n) of the HEA states that the Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Included in this section are requirements related to agency applications, including requirements related to distance education and the provision of documentation. Section 496(o) of the HEA states that the Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions. Section 496(q) of the HEA states that the Secretary shall require a review, at the next available meeting of the National Advisory Committee on Institutional Quality and Integrity, of any change in scope undertaken by an agency or association under subsection (a)(4)(B)(i)(II) if the enrollment of an institution that offers distance education or correspondence education that is accredited by such agency or association increases by 50 percent or more within any one institutional fiscal year.

Current Regulations: We propose to redesignate and amend current regulations in § 602.32(c)–(h) to this section. In the current regulations, the Department processes applications for expansion of scope, compliance reports,

or increases in enrollment reports in accordance with paragraphs with paragraphs (c) through (h) of § 602.32. These regulations require that the Department publishes a notice in the **Federal Register** upon receiving an agency's application for recognition, thereby inviting public comment on the agency's adherence to the established recognition criteria and announcing the deadline for such submissions. Department staff then conducts a comprehensive evaluation of the agency's application for initial or continued recognition. This evaluation considers all relevant information regarding the agency's compliance with recognition criteria and the consistency with which those criteria are applied. The evaluation must include site visits to the agency or to institutions and programs it accredits; reviews of agency files; examination of public comments, third-party information, and complaints; as well as consideration of legal actions involving either the agency or the institutions under its purview. In reviewing applications for initial recognition or expansion of scope, the Department may weigh negatively any evidence that the agency participated in efforts to unduly limit student eligibility for licensure, certification, or entry into a profession. Department staff may also review information related to accredited institutions or programs to assess their compliance with agency standards and the agency's effectiveness in applying those standards, while ensuring that all materials relied upon in the evaluation are made available to the agency for review and comment. Upon completing its evaluation, Department staff prepares a draft analysis identifying any areas of potential noncompliance and transmits it to the agency along with relevant comments, complaints, and supporting materials. The agency is afforded at least 180 days to respond. After reviewing any response, Department staff prepares a final analysis indicating whether the agency is in full, substantial, or noncompliance with each criterion. The final analysis includes a recommendation to the senior Department official regarding approval, continued recognition (with or without monitoring or compliance reporting), or denial, limitation, suspension, or termination of recognition. The final analysis and accompanying materials are provided to the agency no later than 30 days prior to the Advisory Committee meeting.

Proposed Regulations: We propose new processing requirements for expansions and contractions of scope, compliance reports, and increases in

headcount. Specifically, under proposed § 602.32(a)(1) and (2) the Department will consider applications for an expansion or contraction of an accrediting agency's scope only when submitted together with an application for recognition, unless Department staff, at their discretion, elect to review such a request independently. Under proposed 602.32(a)(3), in evaluating proposed scope changes, the Department may treat evidence of anticompetitive conduct, such as collusion between an accrediting agency and affiliated professional or membership organizations to inflate qualification requirements for professional entry or licensure, as a negative factor. Under proposed § 602.32(b), for compliance reports, Department staff will complete its evaluation and, within 90 days of the deadline established in the senior Department official's or Secretary's decision letter, prepare a written draft analysis of the agency's report. This draft, along with any materials received by the Department within the established timeframe, will be sent to the agency and identifies any potential areas of noncompliance. The agency will be invited to submit a written response within at least 45 days. Department staff will then review any response and prepare a final analysis indicating whether the agency is in full, substantial, or noncompliance with the applicable recognition criteria, and provide a recommendation to the senior Department official on whether recognition should be approved, continued (with or without reporting or monitoring requirements), or denied (limited, suspended, or terminated). The final analysis and all available materials for the Advisory Committee will be provided to the agency no later than 30 days prior to the Committee's meeting.

Under proposed § 602.32(c), reports related to increases in headcount enrollment submitted pursuant to proposed § 602.30(d) will be processed by the Department using the same procedures applicable to compliance reports.

Reasons: The addition of this section would allow for clearer, quicker, and more specific processing requirements related to reviews of scope, compliance reports, and increase in headcount enrollment. By only allowing for the review of changes in scope with an application for recognition other than in special cases in § 602.32(a)(2), the Department aims to focus Department and accrediting agency resources and increase the efficiency of the review process in accordance with E.O. 14279. Under proposed § 602.32(a)(3), the

Department would make clear that it will not permit agencies to expand or contract scope in a manner that would violate antitrust laws or cause inappropriate credential inflation.

Under proposed § 602.32(b), the Department would establish clear procedures for the review of compliance reports. The new procedures would significantly expedite the time of review for compliance reports by requiring Department staff to review agency submissions within 90 days rather than the previous 12 months and requiring the agency to reply to any concerns within 45 days rather than the previous 180 days. This change would implement E.O. 14279, which directs the Department to increase the efficiency of the accreditor recognition review process and also potentially ensure, by resolving issues in a more timely manner, the protection of students and the stewardship of taxpayer dollars.

Under proposed § 602.32(c), the Department would make clear that reviews related to increase in headcount enrollment would be processed in the same expedited timeline as compliance reports.

§ 602.33 Procedures for Review of Agencies During the Period of Recognition, Including the Review of Monitoring Reports

Statute: Section 496(n) of the HEA requires the Secretary to conduct a comprehensive review and evaluation of the performance of all accrediting agencies seeking recognition to determine if they meet the criteria. Additionally, Section 496(o) of the HEA states that the Secretary shall provide procedures for the recognition of accrediting agencies.

Current Regulations: Current regulations enable Department staff to conduct a review of an accrediting agency at any time based upon an agency's submission of a monitoring report or any other credible information that raises compliance concerns. Department staff will provide the agency with a draft analysis along with any supporting documentation if such reviews indicate compliance issues. The agency will have ninety days to provide a written response after which Department staff will either conclude the review, continue monitoring, or provide a final analysis for presentation to the NACIQI. In such an event, a notice will be made in the **Federal Register**, any public comments received will be provided to the agency, further analysis will be finalized if needed due to comments or agency responses, and the final staff analysis will be provided

to the agency at least thirty days prior to the NACIQI meeting.

Proposed Regulations: We propose adding a new section as § 602.33(c) ensuring accrediting agencies are provided with any documentation as a result of an inquiry being made under § 602.33(a)(2) and are given an opportunity to respond, which is a modification of language being removed from current § 602.33(c). We propose adding a new section as § 602.33(d) to ensure that reviews resulting in a finding of an agency in compliance are concluded and the agency is notified. We propose adding language in the existing § 602.33(c)(2) (proposed § 602.33(e)(2)) to clarify that the Department only provides not previously provided supporting documentation to accrediting agencies. We propose changing the timeline in the existing § 602.33(c)(3) (proposed § 602.33(e)(3)) for accrediting agencies to provide a written response to the draft analysis from ninety days to forty-five days. We propose adding language in § 602.33(c)(4)(i) (proposed § 602.33(e)(4)(i)) to clarify that a review is concluded upon finding that an accrediting agency is in compliance. We propose striking the existing § 602.33(c)(4)(iii)(B–C) to eliminate publishing a notice in the **Federal Register** and the steps involved with soliciting and receiving third party comments on reviews initiated under this section that result in a finding of noncompliance.

Reasons: The addition of the new § 602.33(c) will promote greater transparency and due process for accrediting agencies but is not a significant change from current practice. The clarification in the existing § 602.33(c)(2) and the change to the timeline in § 602.33(c)(3) will promote greater efficiency. The change would implement the E.O. 14279 for the Department to increase the efficiency of the accreditor recognition review process and ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome.

The change in § 602.33(c)(4)(i) (proposed § 602.33(e)(4)(i)) will clarify that a review is only concluded if the result was a finding of compliance. The removal of existing § 602.33(c)(4)(iii)(B–C) will promote greater efficiency in the use of Department resources, particularly given that public comment is not required by statute for such reviews, and the public will still have an opportunity to provide third-party comments in response to a notice in the **Federal Register** throughout other stages of an accrediting agency's recognition

process. The addition of the new § 602.33(d) will promote greater transparency and finality for accrediting agencies that have been found in compliance following a review.

§ 602.34 Advisory Committee Meetings

Statute: Section 114(a) of the HEA requires the establishment of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). Section 114(c) of the HEA states that one of the NACIQI's functions is to advise the Secretary with respect to the recognition of a specific accrediting agency. Section 114(d) of the HEA sets forth meeting procedures for the NACIQI which includes: publication of meeting information, establishment of an agenda, invitation for public comment, and attendance by a Department representative. Additionally, Section 496(o) of the HEA states that the Secretary shall provide procedures for the recognition of accrediting agencies.

Current Regulations: Current regulations provide procedures for the Advisory Committee (NACIQI) meetings and its review of accrediting agencies. Department staff develop a proposed meeting schedule and the NACIQI establishes an agenda for approval by the Designated Federal Official. Department staff provide the NACIQI with the agency's application or compliance report and supporting documentation, the agency's response to the draft staff analysis, a final staff analysis, any timely third-party comments and any agency responses to them, and any other information used in developing the analysis. Prior to the NACIQI meeting, the Department issues a **Federal Register** notice inviting interested parties to make oral presentations. The NACIQI conducts a public meeting to review the agency, develops a written motion making a recommendation on recognition regarding the agency, and provides the recommendation to the senior Department official.

Proposed Regulations: We propose including NACIQI's consideration of an agency seeking a contraction of its scope of recognition under § 602.34(c)(1). We propose striking the term "comment" under §§ 602.34(c)(4) and (c)(5) and instead require the Department to provide third-party "information" and responses to the NACIQI. We propose adding the new subsection § 602.34(d)(2) to require accrediting agencies to publish a notice of an upcoming NACIQI meeting, concerning the agency, on its own website with instructions on how the public can participate. The remaining proposed

regulations are not substantive changes but are proposed cross-reference changes and technical amendments.

Reasons: Including contraction of scope in § 602.34(c) would clarify that any significant change in scope would be reviewed by the NACIQI to ensure that accrediting agencies do not restrict entry into professional fields by eliminating credentials obtained at lower levels. The change would implement an order within E.O. 14279 directing the Department to prohibit practices that result in credential inflation. The rescission of the term “comment” and substitution of the term “information” in §§ 602.34(c)(4) and (c)(5) will reflect the change in terms made in § 602.31(b). The inclusion of a new subsection under § 602.34(d) requiring accrediting agencies to post NACIQI meeting information on their own websites will increase the transparency and expand the public’s ability to comment on accrediting agency performance at the NACIQI meeting by requiring agencies to publish on their websites information regarding public participation related to the recognition review. The non-substantive and cross-reference changes will provide greater clarity and conformity.

§ 602.35 Responding to the Advisory Committee’s Recommendation

Statute: Section 496(n) of the HEA requires the Secretary to conduct a comprehensive review and evaluation of the performance of all accrediting agencies seeking recognition to determine if they meet the criteria. Additionally, Section 496(o) of the HEA states that the Secretary shall provide procedures for the recognition of accrediting agencies.

Current Regulations: Current regulations provide the procedures for allowing Department staff or an accrediting agency, or both, to submit further information to the senior Department official following a NACIQI meeting. These procedures also provide guidance on the limitations to comments submitted and the provision of comments to Department staff or an accrediting agency, or both.

Proposed Regulations: We propose adding language to § 602.35(a) to clarify that the timeline for the Department staff or the accrediting agency to submit further comments to the senior Department official begins within ten business days of the transcript of the NACIQI meeting being published as opposed to beginning instead within ten business days following the conclusion of the meeting itself.

Reasons: The clarification in § 602.35(a) will better ensure that both

Department staff and the accrediting agencies have an appropriate amount of time and access to the NACIQI transcript when drafting any further comments for consideration by the senior Department official following a NACIQI meeting.

§ 602.36 Senior Department Official’s Decision

Statute: Section 496(l) of the HEA requires the Secretary to determine if an accrediting agency is in compliance with the requirements. If not, the Secretary shall either limit, suspend, or terminate the agency’s recognition or require it to take corrective actions. If the agency does not return to compliance, the Secretary is required to limit, suspend, or terminate the agency’s recognition. An agency must be provided with notice and an opportunity for a hearing if the Secretary seeks to limit, suspend, or terminate an agency’s recognition. Section 496(n) of the HEA requires the Secretary to conduct a comprehensive review and evaluation of the performance of all accrediting agencies seeking recognition to determine if they meet the criteria. Section 496(n) of the HEA also requires the Secretary to maintain sufficient documentation to support the conclusions reached in the recognition process and, if the Secretary does not recognize any accrediting agency, to publicize the reason for denying recognition. Additionally, Section 496(o) of the HEA states that the Secretary shall provide procedures for the recognition of accrediting agencies.

Current Regulations: Current regulations provide the procedures for the senior Department official to make a recognition decision. The regulations describe the types of corrective actions that can be taken if needed as well as timelines that must be followed. They also provide for due process.

Proposed Regulations: We propose making cross-reference changes to conform to earlier proposed changes, to include action on an application of a contraction of scope and revising regulatory citations.

Reasons: The proposed cross-reference changes ensure proper references and continuity throughout the regulations.

§ 602.37 Appealing the Senior Department Official’s Decision to the Secretary

Statute: Section 496(l) of the HEA requires the Secretary to determine if an accrediting agency is in compliance with the requirements. If not, the Secretary shall either limit, suspend, or terminate the agency’s recognition or

require it to take corrective actions. If the agency does not return to compliance, the Secretary is required to limit, suspend, or terminate the agency’s recognition. An agency must be provided with notice and an opportunity for a hearing if the Secretary seeks to limit, suspend, or terminate an agency’s recognition. Section 496(n) of the HEA requires the Secretary to conduct a comprehensive review and evaluation of the performance of all accrediting agencies seeking recognition to determine if they meet the criteria. Additionally, Section 496(o) of the HEA states that the Secretary shall provide procedures for the recognition of accrediting agencies.

Current Regulations: Current regulations provide the procedures for an accrediting agency to appeal the recognition decision of the senior Department official.

Proposed Regulations: We propose making cross-reference changes to conform to earlier proposed changes, to include revised regulatory citations.

Reasons: The proposed cross-reference changes ensure proper references and continuity throughout the regulations.

§ 668.43 Institutional and Programmatic Information

Statute: Section 485 (a)(1) of the HEA requires institutions participating in the title IV, HEA programs to provide accurate and comprehensive institutional and consumer information to current and prospective students, and to make the information readily available upon request, through appropriate publications, mailings, and electronic media. Section 485 (a)(1) of the HEA states that institutions must provide a non-exhaustive list of information related to academic programs, cost of attendance, program requirements, institutional policies, accreditation, completion and graduation rates, and other consumer relevant disclosures.

Current Regulations: Current § 668.43(a)(11) requires institutions’ transfer of credit policies to include any established criteria the institution uses regarding the transfer of credit earned at another institution and any types of institutions or sources from which the institution will not accept credits, a list of institutions with which the institution has established an articulation agreement, and written criteria used to evaluate and award credit for prior learning experience including, but not limited to, service in the armed forces, paid or unpaid employment, or other demonstrated competency or learning. Current

§ 668.43(c)(3) requires disclosures to be made directly to the student in writing, which may include through email or other electronic communication. Current § 668.43(c)(3) also requires an institution to make a determination regarding the State in which a student is located in accordance with the institution's policies or procedures, which must be applied consistently to all students. The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location, including the basis for such determination. An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures, that the student's location has changed to another State.

Proposed Regulations: The Department proposes adding additional criteria to § 668.43(a)(11) that institutions must include in their transfer of credit policies. The additional criteria includes the timeline by which a transcript must be submitted for timely review so that a prospective student can make an informed decision prior to making a nonrefundable financial commitment, enrollment or registration, and a statement regarding whether the institution considers credit earned in a non-degree program, or hours completed in a non-credit program, for transfer or articulation to a degree program.

The Department proposes to amend current § 668.43(c)(3) with disclosure requirements for transfer of credit. Namely, if an institution receives a timely transcript from a student, the institution would be required to inform the student of the credit that would be awarded for courses on the transcript. Institutions would be required to inform the student of the credit that the institution declines to award for courses on that transcript, and disclose the estimated time and, when applicable, courses that would be needed to replace the courses for which the institution declined to award credit. The Department proposes adding a new provision, § 668.43(c)(4), that states that if the institution declines to award credit to a student pursuant to its transfer of credit policy under 34 CFR 602.24(e)(4), the institution would need to provide the student with a written rationale specific to each course that does not result in transfer credit. The Department also proposes to move the content from current § 668.43(c)(3),

which requires disclosures to be made directly to the student in writing, to § 668.43(c)(5)(iii). Accordingly, the Department proposes to update the cross references in this section from paragraph (c)(3)(ii)(A) to (c)(5)(iii)(A). The Department also proposes to require institutions to provide students with disclosures related to transcripts by the earlier of the date that the student signs an enrollment agreement completes registration or makes a nonrefundable financial commitment to the institution.

The Department proposes to add the word "nonrefundable" in current § 668.43(d)(3) to require an institution to provide the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a nonrefundable financial commitment to the institution.

Reasons: The Department proposes a defined timeline for students to submit transcripts in § 668.43(a)(11) so institutions can complete transfer credit evaluations before a prospective student makes any binding financial or enrollment commitment. A timeline would prevent delays in transcript review that could disadvantage students or pressure them into committing without knowing their standing in the program. The Department also proposes that an institution disclose whether it considers credit earned in a nondegree program, or hours completed in a noncredit program, for transfer or articulation to a degree program in order for students have accurate, up-front information about whether learning they have already completed—in non-degree or non-credit programs—would count toward a degree program at the institution.

The Department proposes new § 668.43(c)(3) to help prospective students understand credit acceptance before making a financial commitment. The Department proposes adding § 668.43(c)(4) to have institutions explain exactly why a course was not accepted, rather than leaving students uncertain or subject to unclear institutional practices. The Department proposes adding § 668.43(c)(5) to provide students and borrowers with timely, accurate information necessary to make informed decisions. Clear timing standards reduce ambiguity, promote consistency across institutions, and help prevent delays that can negatively affect students' ability to transfer credits, verify completion, or access financial aid. By establishing a uniform disclosure framework, the

Department aims to enhance transparency, strengthen consumer protection, and improve administrative efficiency while minimizing compliance burdens for institutions.

The Department proposes moving the contents of current § 668.43(c)(3) to § 668.43(c)(5)(iii) because the cross references in the amendatory language needed to be renumbered to align with the new regulatory structure. The Department proposes to add the word "nonrefundable" in current § 668.43(d)(3) to anchor disclosure timing to before a student becomes financially at risk. The intent is to prevent institutions from charging nonrefundable deposits and creating financial liability before students receive information about whether their academic credits will transfer.

VIII. Regulatory Impact Analysis

Executive Orders 12866 and 13563

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles stated in the Executive Order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

As indicated in the Net Budget Impact section of this RIA, the Department estimates that there will be no significant change in transfers between the Federal Government and student loan borrowers and Pell Grant recipients as a result of the proposed regulations. Quantified annualized costs include updates and reporting costs for accrediting agencies, institutions, and individuals detailed in the *Paperwork*

Reduction Act section of this NPRM of \$490.3 million and \$494.2 million at 3 percent and 7 percent discounting, respectively. Therefore, based on our estimates of quantified costs and benefits, OIRA has determined that this proposed regulation is “economically significant” under section 3(f)(1) of Executive Order 12866 and subject to OMB review.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and considering—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available

techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

This action is expected to be considered a regulatory action under Executive Order 14192. This Executive Order directs agencies of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people. We estimate that this rule would generate approximately \$417.9 million in annualized costs at a 7% discount rate, discounted relative to year 2024, over a perpetual time horizon.

Consistent with OMB Circular A–4, we compare the proposed regulations to the current regulations. In this regulatory impact analysis, we discuss the need for regulatory action, potential costs and benefits, net budget impacts, and the regulatory alternatives we considered.

Elsewhere in this section under Paperwork Reduction Act of 1995, we identify and explain burdens specifically associated with information collection requirements.

Regulatory Impact Analysis

In this regulatory impact analysis, we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as the regulatory alternatives we considered.

1. Need for Regulatory Action

The Department proposes this regulatory action to align the Secretary of Education’s (Secretary) criteria for recognition of accreditors to promote high-quality, high-value, and affordable

education for students as outlined in Executive Order 14279, “Reforming Accreditation to Strengthen Higher Education,” issued on April 23, 2025, by President Trump.¹² Executive Order 14279 directs the Secretary to take several actions related to the Department’s recognition of accrediting agencies or associations to ensure agency standards and enforcement actions are focused on student outcomes and free from unlawful discrimination and other potential violations of Federal and State law.

The Higher Education Act (HEA), as amended, requires the Secretary to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of the HEA and for other Federal purposes, on the quality of education or training offered by the institutions or programs that they accredit. Consistent with the statute, the Secretary has established regulations for recognition of accrediting agencies and has revised these regulations periodically.

The proposed regulations are intended to reduce barriers that limit competition among accreditors and recognition of new accreditors. Similarly, via changes to accreditor requirements, the proposed regulations aim to increase educational innovation and foster new education models that advance credential and degree completion. To improve student outcomes on student loan repayment, graduate earnings, and financial value and affordability, the proposed regulations also mandate that accrediting agencies assess member institutions on program-level student outcomes, without reference to race, ethnicity, or sex.

2. Summary of Proposed Provisions

Table 2.1 provides a summary of the proposed provisions.

TABLE 2.1—SUMMARY OF KEY CHANGES IN THE PROPOSED REGULATIONS

Provision	Regulatory section	Description of proposed provision
Accreditation, Innovation, and Modernization		
Special rules regarding institutional accreditation or preaccreditation.	§ 600.11	Amend § 600.11 to make it less burdensome for institutions that are changing accreditors or wish to utilize more than one accrediting agency.
How do I know which agencies the Secretary recognizes?	§ 602.2	Amend § 602.2 to require the Department provide public notice on its accreditation website if the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency’s recognition before the end of its recognition period.
What definitions apply to this part	§ 602.3	Amend § 602.3 to define and use the term “institution” in these regulations instead of “institution of higher education” which is defined in the HEA, and elsewhere in the Department’s regulations, and refers to a narrower subset of institutions, and to add a definition for “related, associated, or affiliated trade association.”
Link to Federal programs	§ 602.10	Amend § 602.10 to clarify the Secretary’s recognition extends only to those accrediting agencies whose institutions or programs actively participate in a Federal program.

¹² Executive Order 14279. “Reforming Accreditation to Strengthen Higher Education.” The

White House. April 23, 2025. www.whitehouse.gov/

[presidential-actions/2025/04/reforming-accreditation-to-strengthen-higher-education/](https://www.whitehouse.gov/presidential-actions/2025/04/reforming-accreditation-to-strengthen-higher-education/).

TABLE 2.1—SUMMARY OF KEY CHANGES IN THE PROPOSED REGULATIONS—Continued

Provision	Regulatory section	Description of proposed provision
Extent of Accrediting activities	§ 602.11	Amend § 602.11 to require accrediting agencies to clearly describe the scope of their accrediting activities and remove geographic restrictions on institutions' and program' ability to choose an accrediting agency.
Accrediting experience	§ 602.12	Amend § 602.12 to remove references to geographic areas and geographic constraints, and require review of contractions of scope. Additionally, amends the regulations to clarify the policies and capacity an accrediting agency must have to seek initial recognition, and eliminates the "two-year rule" for initial recognition due to lack of statutory requirement.
Effect of recognition	§ 602.13	Unreserve and amend § 602.13 to specify that an accrediting agency's recognition by the Department does not provide any immunity from antitrust laws.
Purpose and organization	§ 602.14	Amend § 602.14 to strengthen the fiscal and administrative criteria an accrediting agency must meet to prove it is fully separate and independent from any related, associated, or affiliated trade or membership organization.
Administrative and fiscal responsibilities	§ 602.15	Amend § 602.15 to require accrediting agencies to administer their standards, policies, and procedures in a manner that minimizes unnecessary compliance costs and administrative burdens on accredited institutions, as well as requires agencies to maintain appropriate conflict of interest controls and policies.
Accreditation and preaccreditation standards	§ 602.16	Amend § 602.16 to require accrediting agencies to establish clear institutional and program level student achievement requirements aligned with § 602.17, and to clarify that any additional standards must be lawful and consistent with ensuring institutional and programmatic quality and integrity.
Application of standards in reaching accreditation decisions.	§ 602.17	Amend § 602.17 to clarify expectations for reviewing student achievement and faculty related policies, including academic freedom and intellectual diversity. There are also new requirements for cost-benefit analysis, institutional flexibility and mission, program length review, and safeguards against misrepresentation.
Ensuring consistency in decision-making	§ 602.18	Amend § 602.18 to require accrediting agency decisions to be neutral with respect to viewpoint and ideology, except for those with a religious mission.
Enforcement of standards	§ 602.20	Amend § 602.20 to provide guidance to accrediting agencies on how to structure their arbitration procedures and remove overly prescriptive requirements.
Review of standards	§ 602.21	Amend § 602.21 to remove overly prescriptive requirements.
Substantive changes and other reporting requirements.	§ 602.22	•Amend § 602.22 to refine the list of changes requiring accreditor approval, add prison education programs as a defined substantive change, and remove outdated and overly prescriptive requirements.
Operating procedures all agencies must have ..	§ 602.23	Amend § 602.23 to require accrediting agencies to ensure make sure institutions comply with all applicable Federal and State laws and remove overly prescriptive requirements.
Additional procedures certain institutional agencies must have.	§ 602.24	Amend § 602.24 to strengthen accrediting agencies' oversight of institutional changes, expand requirements for teach-out planning, including transcript access, and increase transparency and support for students when institutions face disruptions. These regulations would also establish clearer, fairer transfer of credit rules by defining consistent criteria, prohibiting discriminatory denials, requiring acceptance of comparable credits, and providing students with an appeals process.
Due process	§ 602.25	Amend § 602.25 to remove overly prescriptive requirements.
Notification of accrediting decisions	§ 602.26	Amend § 602.26 to update and modernize the required content of agency notices and better align these requirements with contemporary methods of disclosure and allow temporary continuation of eligibility for title IV, HEA funds after erroneous decisions on the part of the accrediting agency.
Other information an agency must provide the Department.	§ 602.27	Amend § 602.27 to require that the Department's website is updated on a regular, timely basis to display the current accreditation status of all institutions and programs.
Regard for decisions of States and other accrediting agencies.	§ 602.28	Amend § 602.28 to broaden the circumstances under which an accrediting agency must re-evaluate an institution or program following negative actions by other authorities.
Agency applications and reports to be submitted to the Department.	§ 602.30	Amend § 602.30 to modernize how accrediting agencies submit applications and required reports to the Department.
Procedures for submitting applications for recognition and renewal of recognition.	§ 602.31	Amend § 602.31 to modernize and streamline the procedures accrediting agencies must follow when submitting applications for initial or renewed recognition.
Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.	§ 602.32	Amend § 602.32 to modernize and clarify the processes used to review an accrediting agency's expansions or contractions of scope, compliance reports, and increases in headcount enrollment.
Procedures for review of agencies during the period of recognition, including the review of monitoring reports.	§ 602.33	Amend § 602.33 to modernize and streamline the procedures for review of agencies during the period of recognition, including the review of monitoring reports.
Advisory Committee meetings	§ 602.34	Amend § 602.34 to require the National Advisory Committee on Institutional Quality and Integrity (NACIQI's) to review applications for contractions of scope, and for accrediting agencies to post public notice of upcoming NACIQI reviews for transparency and consistency.
Responding to the Advisory Committee's recommendation.	§ 602.35	Amend § 602.35 to update cross references.
Senior Department official's decision	§ 602.36	Amend § 602.36 to update cross references.
Appealing the senior Department official's decision to the Secretary.	§ 602.37	Amend § 602.37 to update cross references.
Institutional and programmatic information	§ 688.43	Amend § 688.43 to require transfer of credit disclosures and direct written notice to students.

3. Cost, Benefits, and Transfers

The proposed regulations would affect students, institutions of higher education, accrediting agencies, and the Federal government. The Department expects students and the Federal government to benefit from the

proposed regulations. The proposed regulation is likely to impose new costs on institutions and accrediting agencies.

This analysis focuses on four major policy areas within the proposed rule that are likely to have the most significant costs and benefits:

(1) changes to accrediting agencies' transfer-of-credit policies;

(2) a new requirement that agencies adopt policies that assess program-level student outcomes;

(3) regulatory changes that will allow for greater competition among existing

and newly recognized accrediting agencies; and

(4) reforms that align accreditation standards with efforts to reduce college costs and credential inflation.

We discuss the costs and benefits associated with each of these areas below. The Department notes that there is little critical data available on which to base estimates of the proposed regulation's effect on the accrediting agency marketplace and responses by institutions and students. For this regulatory impact analysis, the Department has relied primarily on publicly available Database of Accredited Postsecondary Institutions and Programs (DAPIP) and its own administrative data on title IV, HEA student aid recipients in the National Student Loan Data System (NSLDS) and Common Origination and Disbursement (COD) data. As we described above in the Directed Questions section, the Department is interested in receiving comments about possible data, methods, and other related research that would supplement these analyses. We are also interested in receiving comments regarding possible impacts not identified by the Department, along with supporting data and analysis.

Transfer of Credits

The proposed regulation would make it easier for students to transfer credits to continue their postsecondary enrollment at a new institution. Under section 602.24(e)(3), accrediting agencies would be required to ensure member institutions adopt several policies regarding transfer of credit that should increase the number of credits students are able to retain when transferring to a new institution. For example, the proposed rule would require that accreditors prohibit an institution from denying transfer of credit based on the recognition of the institution, or type of institution, at which the student completed the coursework, so long as the agency providing accreditation is recognized by the Secretary. The Department also proposes that accrediting agencies require an institution to award transfer credit for undergraduate programs for coursework that has been successfully completed at another institution, is accredited by an agency recognized by

the Secretary, and is comparable in content and learning outcomes to the institution's own course offerings, unless the institution provides a written basis for denial.

Students could benefit from these proposed changes because they may spend less time and money retaking courses that failed to transfer. A 2017 study by the U.S. Government Accountability Office using Department of Education data found that transfer students typically lose 43 percent of their credits when they transfer.¹³ Under the proposed rule, students will retain more of their credits earned at prior institutions, allowing them to complete their postsecondary education faster.

It is difficult to estimate the precise effect this policy may have on enrollment and title IV, HEA student aid disbursements, and the Department acknowledges a variety of outcomes could occur. First, the policy may induce more students to enroll in higher education because students will have more flexibility to switch programs. It may also make transfer more desirable, allowing students to better match themselves to different programs and enhancing their ability to continue their education. If this occurs, the policy may ultimately increase enrollment and title IV, HEA student aid disbursements, imposing new costs on taxpayers and the Federal government. Additionally, higher education institutions may benefit, as they would likely receive additional revenues due to higher enrollment levels.

Alternatively, the policy may result in a reduction in title IV, HEA disbursements, providing a benefit to the Federal government and taxpayers and a new cost for higher education institutions. This would occur if higher education enrollment remains constant and if the proposed provision allows students finish their credentials faster, resulting in fewer title IV, HEA disbursements. If this occurs, institutions may experience costs because their transfer students will likely spend less time enrolled (because

they will not need to retake the credits that the institution previously did not accept in the transfer).

To better understand the potential impact of the transfer of credit policies proposed for accrediting agencies in this rule, the Department is providing information from the National Student Loan Data System on the number of undergraduate students who transferred institutions between the 2023–24 and 2024–25 award years and the title IV, HEA student aid they received. This information is presented in Tables 3.1 and 3.2. Specifically, Table 3.1 shows that, between the 2023–24 and 2024–25 award year, a total of 1.8 million title IV, HEA students transferred institutions, and among those students, roughly 60 percent received title IV, HEA student aid in the award year they transferred (2024–25). Table 3.2 shows that these title IV, HEA recipients received a total of \$8.8 billion in title IV, HEA funds at their new institution in 2024–25, or an average of approximately \$8,300 per transfer student.

While the Department lacks readily available data to determine how much title IV, HEA disbursements could change due to the proposed transfer of credit provisions, these data help establish a method to gauge the potential impact for both students and taxpayers. For example, if the Department assumes that 43 percent of title IV, HEA student aid received by transfer students was spent covering tuition and fees for course credits that failed to transfer (which is what prior research indicates is the average share of credits that fail to transfer), and under further assumptions that overall enrollment remains constant and transfer students do not change other aspects of their enrollment behavior, this would suggest that title IV, HEA disbursements would decline by an average of approximately \$3,600 per transfer student during the 2024–25 award year. As described in the Directed Questions section, the Department seeks public comments on other data and methods that could be utilized to estimate the potential impacts of this proposed transfer of credit provisions, and the Department may revise these estimates based on the public comments we receive.

¹³ U.S. Government Accountability Office, Report to Congressional Requesters, "Higher Education: Students Need More Information to Help Reduce Challenges in Transferring College Credits", GAO-17-574, August 14, 2017, <https://www.gao.gov/assets/gao-17-574.pdf>.

Table 3.1 - Total Title IV Transfer Students in 2024-25 and the Percent that Received Title IV Disbursements

Control	All Title IV Undergraduate Transfer Students in 2024-25	Undergraduate Transfer Students who Received Title IV Aid in 2024-25	Percent of Undergraduate Transfer Students who Received Title IV Aid in 2024-25
Public	1,325,800	727,200	55%
Private	265,200	196,500	74%
Proprietary	191,700	143,200	75%
Total	1,782,700	1,066,900	60%

Note: "Transfer Student" is defined as a student who enrolled as an undergraduate in both 2023-24 and 2024-25 and was enrolled at different institutions across those award years. These students are counted as transfer students at the institution where those students enrolled in 2024-25. This includes students who complete an undergraduate credential during 2023-24 and continue their enrollment as an undergraduate student in 2024-25. Some double counting may occur if students transferred to two or more institutions in 2024-25. "All Title IV Undergraduate Transfer Students" includes any title IV, HEA transfer student in 2024-25, regardless of whether or not title IV, HEA student aid was received in 2024-25.

Source: Department of Education using NSLDS data from the 2023-24 and 2024-25 award years.

Table 3.2 - Total and Average Title IV Disbursements to Undergraduate Transfer Students During the 2024-25 Award Year

Control	Undergraduate Transfer Students who Received Title IV Aid in 2024-25	Total Title IV Aid Disbursed to Undergraduate Transfer Students in 2024-25	Average Title IV Disbursement
Public	727,200	\$5,389,718,800	\$7,400
Private	196,500	1,957,207,000	10,000
Proprietary	143,200	1,490,474,600	10,400
Total	1,066,900	8,837,400,400	8,300

Note: "Transfer Student" is defined as a student who enrolled as an undergraduate in both 2023-24 and 2024-25 and was enrolled at different institutions across those award years. These students are counted as transfer students at the institution where those students enrolled in 2024-25. This includes students who complete an undergraduate credential during 2023-24 and continue their enrollment as an undergraduate student in 2024-25. Some double counting may occur if students transferred to two or more institutions in 2024-25. Title IV aid includes Pell Grants and student loans.

Source: Department of Education using NSLDS data from the 2023-24 and 2024-25 award years.

Standards for Program-Level Student Outcomes

Under the proposed regulation, accrediting agencies are required to review the use of additional student outcome metrics in their standards for institutions. Under section 602.17, accreditors must review their criteria for assessing whether an institution is successful in achieving its stated objectives at both the institutional and program levels, including minimum expectations regarding student outcomes such as graduation rates, post-completion employment and educational and economic returns using earnings data for former students relative to the total cost of attendance.

Requiring accrediting agencies to review their standards and criteria may impose new costs on both accreditors and institutions. Some accrediting agencies may review their usage of student outcome criteria and ultimately make no adjustments to the standards they use because they have found, in their evaluation, that their standards are sufficiently rigorous and properly

evaluate student success. In these cases, the cost to accreditors and institutions is likely to be small.

In other cases, accrediting agencies may review and then adopt new standards related to student outcomes for the institutions they accredit. Agencies that choose this action may experience costs from several factors. First, for agencies that do not have a mechanism in place to assess the student success metrics of the institutions or programs they accredit, they will need to develop these new standards and apply them routinely in the accreditation process. Second, accrediting agencies may also need to develop systems and processes that allow them to collect new data from institutions, and to invest in new analytical capacity to assess the extent that institutions meet minimum requirements related to student outcomes.

Institutions accredited by agencies who review and adopt new standards may also incur new costs as those institutions work to comply with the new standards and requirements from

their accrediting agency. This is likely to include new reporting costs between institutions and accrediting agencies. Institutions are also likely to incur costs as they work to change and improve any programs that fail to achieve compliance with any new standards related to student achievement imposed by an accrediting agency. Some institutions may ultimately decide to close noncompliant programs, which will also cause institutions to incur new costs, both in operational costs to shutter a program, and in reduced enrollment and revenue associated with those closed programs.

Accrediting agencies have considerable discretion in designing their own standards regarding student outcomes under the proposed regulation, and the Department cannot anticipate which metrics agencies will consider revising or adopting when making determinations regarding recognition. This makes it difficult for the Department to estimate the impact of the proposed change. To inform the potential impact of the proposed

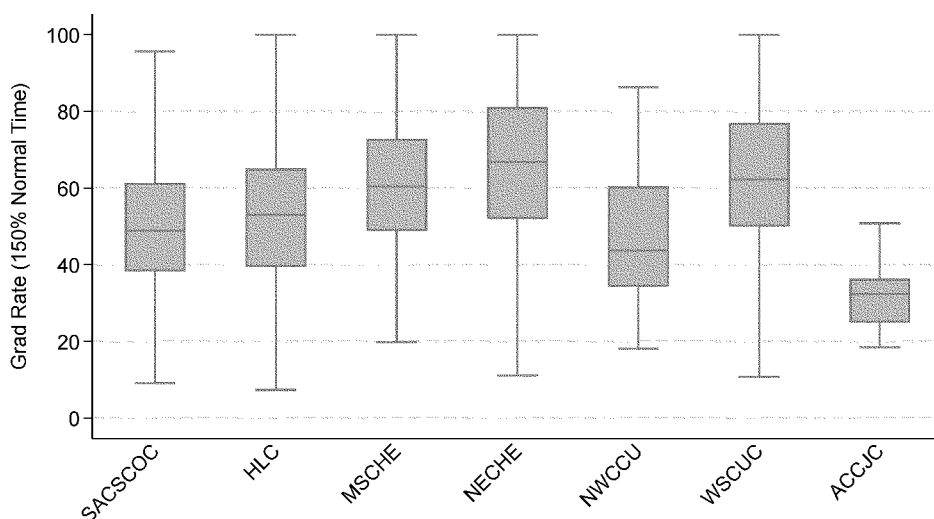
requirement, the Department compiled data on the variation in several student outcome metrics among institutions accredited by seven institutional accreditors.¹⁴ These metrics include graduation rates, post-enrollment earnings, and student loan delinquency rates. Data were drawn from DAPIP, the College Scorecard, and the Program Participation Data 2026 file released for the Accountability in Higher Education and Access Through Demand-Driven (AHEAD) rulemaking. The results are presented in Figures 3.1, 3.2, and 3.3. These box plots show the variation in

student outcomes for institutions recognized by the same accrediting agency.

These figures show a wide variation in student outcome metrics among the institutions each accreditor accredits. For example, the Higher Learning Commission recognizes both institutions with near perfect graduation rates and institutions with graduation rates well below 20 percent. The Higher Learning Commission also accredits institutions with both extremely high (over 80 percent) and very low student loan delinquency rates. The variation in

outcomes across institutions recognized by the same agency suggest that, in practice, accrediting agencies have few meaningful standards on student outcomes. If the proposed regulations result in agencies adopting more rigorous or consistent standards, some institutions or programs might be at risk of noncompliance and could therefore face pressure to improve or risk losing recognition.

Figure 3.1—Variation in Institutional Graduation Rates by Accrediting Agency



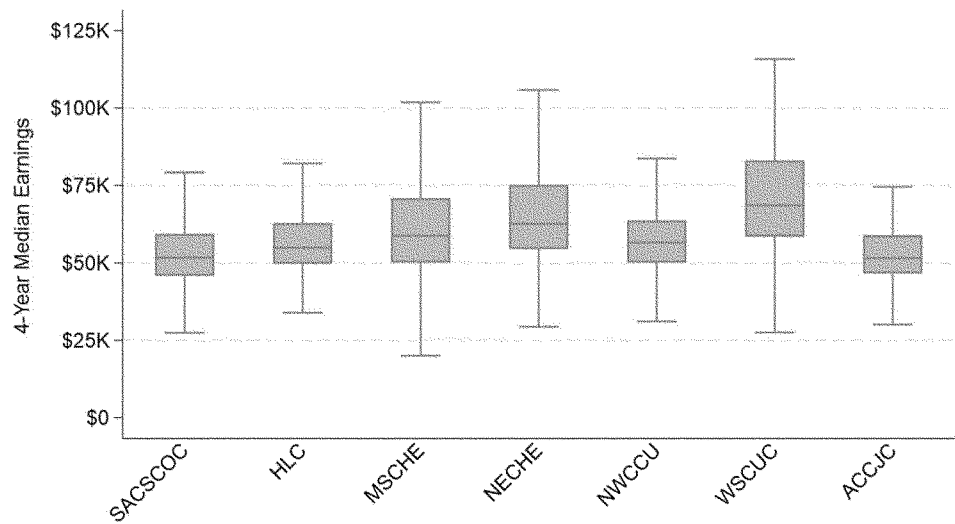
Notes: Graduation rates are for the 2025 Award Year. Graduation rates are defined as the completion rate for first-time, full-time students at four-year institutions (150 percent of expected time to completion). The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU). Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

¹⁴ These include the Accrediting Commission for Community and Junior Colleges, Higher Learning Commission, Middle States Commission on Higher

Education, New England Commission of Higher Education, Northwest Commission on Colleges and

Universities, and Southern Association of Colleges and Schools Commission on Colleges.

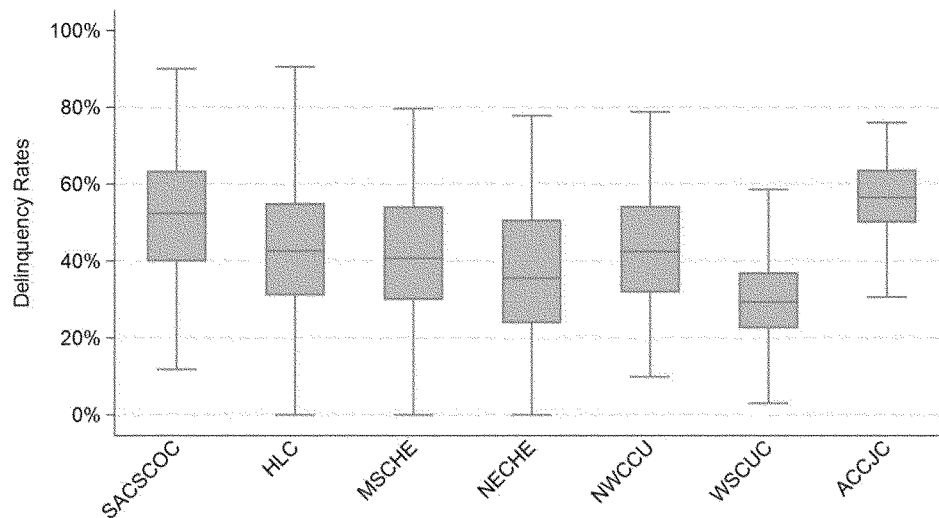
Figure 3.2—Variation in Institutional Completer Earnings by Accrediting Agency



Notes: Earnings are the median earnings of title IV undergraduate students who graduated from the institution during the 2017-18 or 2018-19 academic year measured four years after completion. Students who are not working and students who are enrolled in college when earnings are measured are omitted from the median. The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU).

Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Figure 3.3—Variation in Institutional Loan Delinquency Rates by Accrediting Agency



Notes: Delinquency Rates are for borrowers who entered repayment during AY2016. Borrowers are counted as delinquent if they were ever delinquent (90+ days late) on a federal student loan payment by the end of 2019. See the PPD:26 Technical Data Appendix for additional details. The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU). Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Accrediting Agency Competition and New Agencies

The proposed regulations will remove barriers for new accrediting agencies to emerge and obtain Department recognition. Specifically, the rule simplifies and streamlines the Department's regulations for recognition and review of accrediting agencies, including eliminating superfluous requirements for recognition of new accrediting agencies that reduce competition and institutional choices when selecting an accrediting agency. The proposed rule also simplifies procedures for institutions to change accrediting agencies so that institutions are not forced to comply with standards that are antithetical to their values and missions. For example, the proposed rule would remove the Department's current requirement that an accrediting agency grant or deny accreditation or pre-accreditation to an institution for at least two years prior to seeking

recognition by the Department. This two-year requirement is not statutory and represents an unnecessary burden for new accrediting agencies. Similarly, the proposed regulations streamline the process for institutions to change accreditors by clarifying that the Secretary may not delay, condition, or otherwise adversely affect an institution's participation in title IV, HEA programs solely because the institution seeks accreditation from, or changes accreditation to, another agency recognized by the Secretary. Under section 602.13, the proposed regulation also specifies that recognition by the Department does not confer immunity from antitrust laws, which may further stimulate competition among accrediting agencies.

The Department also believes that reducing barriers to entry may improve accreditation by increasing contestability in the market for accrediting services. Reducing barriers to entry may also facilitate innovation

by making it easier for new accrediting agencies to emerge and for institutions offering new educational models to obtain appropriate accreditation. To the extent such models attract students who receive Pell Grants or Federal student loans, the rule could affect Federal student aid outlays. Innovative models could reduce time to completion of programs, reducing Federal student aid spending, or it might attract new students. The Department cannot reliably quantify this effect because it depends on future entry, institutional participation, student enrollment, and the types of programs that emerge. Contestability refers to the extent to which potential competitors can realistically enter a market and existing customers can switch providers, even if relatively few firms currently compete or customers actually switch. Economic theory suggests that incumbent organizations respond not only to actual competition but also to the credible possibility of new entry or customer

mobility. Baumol's theory of contestable markets predicts that reducing barriers to entry encourages incumbent firms to improve quality, reduce unnecessary costs, and become more responsive to consumers, while Demsetz emphasized that competition for a market can discipline incumbent firms even in concentrated industries. See William J. Baumol, "Contestable Markets: An Uprising in the Theory of Industry Structure," 72 *American Economic Review* 1 (1982); Harold Demsetz, "Why Regulate Utilities?," 11 *Journal of Law and Economics* 55 (1968). The Department believes that reducing unnecessary barriers to the recognition of new accrediting agencies and facilitating institutional mobility among recognized agencies is therefore likely to improve accreditor agency performance even if relatively few institutions ultimately change accreditors. Accordingly, to the extent that these changes increase the credible possibility of new accreditor entry or institutional mobility, economic theory suggests they may improve accreditor performance even if relatively few institutions ultimately change accreditors.

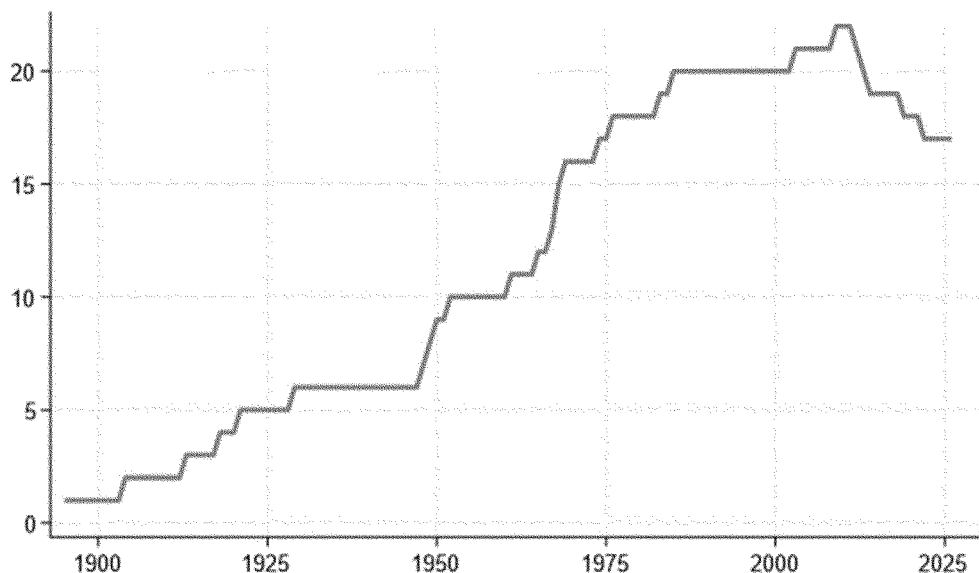
Although the Department lacks sufficient data to estimate how these proposed changes will affect the accreditation marketplace, the changes will likely increase the number of institutional accrediting agencies recognized by the Department and may

increase the number of institutions seeking to change agencies. To provide context regarding the potential impact of the proposed changes, the Department used information from DAPIP to examine the growth and contraction in the number of institutional accrediting agencies and the rate and number of institutions that switch agencies over time. This analysis adds evidence to the Department's view that both new accrediting agency recognition and changes in agency by institutions are rare. For example, Figure 3.4 and Table 3.3 show that there has been little change in the number of institutional accrediting agencies over the past 30 years, and that in recent decades the number of recognized agencies has actually declined, despite the large increases in higher education enrollment over this time. Additionally, Table 3.4 shows that since 2020, only ten institutions have voluntarily switched from one of the agencies formerly known as a regional accrediting agency, and that fewer than 50 have ever voluntarily switched away from these accreditors.

One of the key goals of the proposed regulations is that, through the proposed reforms to reduce burden and enhance competition among accreditors, more agencies will choose to enter the marketplace and greater numbers of institutions will choose to change accreditors, thereby enhancing

competition. While prior regulatory reforms may not have resulted in a descriptive change in the number of accreditors and amount of accreditor switching that takes place (see Figure 3.4 and Table 3.4), the proposed regulations include additional provisions aimed at spurring competition, which may ultimately enhance the ability for accreditors to enter and institutions to switch. Specifically, we believe that the reduction in time from initial petition to review for recognition by the senior Department official will ultimately result in additional accrediting agencies entering the marketplace, providing more options for institutions. These proposed changes also coincide with regulatory efforts by some States that require the State's institutions to switch accrediting bodies. Ultimately, accrediting agencies may benefit from these proposed regulations because they will likely experience less burden to gain initial recognition and maintain recognition. Institutions, similarly, could benefit from these proposed regulations if they value the ability to choose from a greater number of potential agencies, or if the new agencies that may emerge are better aligned with the institution's mission.

Figure 3.4—Number of Institutional Accrediting Agencies 1895–Present



Notes: Counts exclude state approval agencies and other accrediting agencies that predominantly accredit programs but are classified as institutional accrediting agencies because they can accredit single-purpose institutions. Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Table 3.3 - Institutions & Accrediting Agencies 1950, 1975, 2000, & 2025

Year	1950	1975	2000	2025
Institutional Accreditors	9	17	20	17
Accredited Institutions	970	2,710	4,840	4,630
Postsecondary Students (Millions)	2.3	11.2	15.3	19.6

Notes: Enrollment is defined as Total Fall Enrollment at degree-granting institutions that participate in title IV student aid programs. Number of accredited institutions is rounded to the nearest 10. Includes all institutions from the corresponding year (in the column header), regardless of whether the college still exists in 2026.

Source: DAPIP, National Center of Education Statistics Digest of Education Statistics.

Table 3.4 - Number of Institutions Voluntarily Switching Accrediting Agency

Type of Switch	Total	Before 2020	2020 or After
Total Voluntary Switches <i>(1965-Present)</i>	189	134	55
Former-Regional → Former-Regional	11	5	6
Former-National → Former-National	75	52	23
Former-National → Former-Regional	71	49	22
Former-Regional → Former-National	32	28	4

Notes: The sample is limited to institutions that are still in operation in 2026. "Voluntary Accrediting Agency Switching" is when institutions change their institutional accrediting agencies across two consecutive years excluding cases where the institutions' accrediting agency dissolved, split, changed name, or lost recognition. The seven "Former-Regional Accrediting Agencies" include: (1) Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); (2) Middle States Commission on Higher Education (MSCHE); (3) WASC Senior College and University Commission (WSCUC); (4) Accrediting Commission for Community and Junior Colleges (ACCJC); (5) Higher Learning Commission (HLC); (6) New England Commission of Higher Education (NECHE); and (7) Northwest Commission on Colleges and Universities (NWCCU). "Former-National Accrediting Agencies" include all other institutional accrediting agencies. Note that North Central Association of Colleges and Schools (NCACS) voluntarily dissolved in 2013, and accrediting functions migrated to HLC.

Source: Department of Education calculation using DAPIP.

Affordability and Innovation

The Department's proposed rule would require accrediting agencies to adopt several new policies and procedures that aim to increase college affordability. Specifically, under section § 602.17 (Application of standards in reaching accreditation decisions), the proposed rule would require accrediting agencies to consider efficiency in their review of institutions and to conduct cost-benefit analyses to ensure institutions' activities justify the associated financial, administrative and opportunity costs, and the impact of capital expenditures on future operating expenses. Such analyses could put downward pressure on institutional costs and, by extension, tuition prices. If some institutions prove to be incapable of conducting credible cost/benefit analyses, the number of accredited institutions could fall, but this is unlikely.

Similarly, the proposed rule could put downward pressure on student costs by helping to reduce excessive program length by requiring that accrediting agencies apply standards that ensure program length is appropriate to the objectives of the program and credential awarded at the institution. The proposed rule also aims to reduce credential inflation and prevent agencies from restricting institutions from offering short-term programs, which may help reduce costs for students because they will be able to pursue fewer or shorter credentials to work in a given occupation. This may ultimately increase enrollment and title IV, HEA student aid disbursements if more students pursue postsecondary education as a result of the improved affordability and reduced time to completion.

The proposed rule would also specify in section 602.17 that accrediting agencies' standards related to student achievement may include credit for prior learning. Granting credits for prior learning should reduce costs for students because it allows them to earn credit from skills obtained outside the institution, such as service in the armed forces, employment, or other demonstrated competency.

While these provisions would likely provide benefits to students through lower prices and less time enrolled, they could also reduce revenues for institutions and transfers of Federal title IV, HEA funds to institutions. Institutions may therefore bear additional costs as they adjust their programs and policies to align with new accreditation standards. Accrediting agencies will bear new costs as they

work to incorporate these proposed changes into their standards and practices.

The proposed rule includes several provisions that ensure accrediting agencies do not unnecessarily constrain innovations that could further reduce costs to students and institutions, and may also increase program quality. For example, section 602.15 (Administrative and fiscal responsibilities) would be amended to require that accrediting agencies provide training to all agency representatives and staff that includes topics related to best practices in various educational delivery methods, models, and modalities; innovative or lower-cost educational delivery models that may provide high-quality education to students; and avoiding unnecessary costs to institutions in the accreditation process. These innovations may make higher education more accessible for students, thereby increasing postsecondary enrollment and title IV, HEA student aid disbursements.

The proposed rule also states that agencies should apply their standard in ways that seek to reduce unnecessary barriers that restrict the ability of institutions or programs from adopting instructional, programmatic, or delivery practices that improve or accelerate credential completion. By reducing unnecessary procedural requirements, encouraging accrediting agencies to minimize administrative burdens, recognizing innovative educational delivery models, and discouraging unnecessary barriers to new instructional approaches, the proposed regulations are expected to facilitate experimentation with new methods of delivering high-quality postsecondary education. Because many of these innovations have not yet been developed or implemented, the Department cannot estimate their future value, but expects that increased flexibility may improve educational quality, enrollment, and affordability over time.

The proposed provisions related to innovation and new educational models are likely to provide benefits to students by increasing the range of available educational options and by reducing prices for those options. As noted in the Net Budget Impact section of this RIA and in the 2019 Accreditation regulations, these factors may have offsetting effects on loan and grant volumes as credit transfer or shorter programs could reduce the amount needed to complete a degree but others could encourage increased enrollment. Accrediting agencies will bear new costs in aligning their policies and practices to implement those new requirements.

Finally, the proposed rule requires major new changes that mandate separation between trade associations or affiliated organizations and accrediting agencies. These relationships can result in credential inflation if trade associations seek to require additional credentials to enter into a profession and then use their affiliation with an accrediting agency to make those requirements a condition of accreditation for programs at institutions. One report finds that many federally recognized programmatic accrediting agencies maintain deep structural ties with the professional and trade associations with which they are affiliated.¹⁵

Accrediting agencies and affiliated organizations or associations will bear new costs under these provisions as they work to alter their legal, operational, and physical structures. Students may benefit from these proposed changes because the policies could reduce excessive and unnecessary degree and time requirements to enter into certain professions.

Department Administrative Costs

The Department expects the proposed regulations to impose only modest incremental administrative costs on the Federal Government. Most provisions modify the criteria and procedures the Department uses when recognizing accrediting agencies rather than establishing new Federal programs or recurring operational responsibilities.

Implementation will primarily require Department staff to review new, or additional, accrediting agency recognition applications and petitions under the revised standards. These reviews are already part of the Department's regular recognition process, and the proposed regulations generally change the substance of those reviews rather than creating new review processes. As a result, the Department expects most implementation activities to be absorbed within existing recognition cycles and staffing levels.

Some additional staff time may be required during the initial implementation period to review revised accrediting agency policies and procedures addressing issues such as conflicts of interest, independence from affiliated organizations, antitrust compliance, student outcomes, academic freedom, intellectual diversity, research integrity, and other revised recognition criteria. The

¹⁵ Cutsinger, B. and Terjesen, S., (2026). Captured Gatekeepers: Structural Conflicts of Interest in U.S. Higher Education (May 12, 2026). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6510203.

Department also anticipates limited one-time costs associated with updating guidance documents, internal training materials, and information systems necessary to administer the revised regulations.

To the extent the proposed regulations encourage the recognition of additional accrediting agencies or increase the number of institutions seeking to change agencies, the Department could experience a modest increase in recognition-related workload. However, these activities are expected to occur gradually over multiple recognition cycles and to remain manageable within existing administrative structures.

The Department also anticipates offsetting administrative savings. Since the Department announced its accreditation reform efforts, two accrediting agencies have voluntarily withdrawn from Department recognition. As additional agencies determine that they no longer wish to maintain Federal recognition under the revised regulatory framework, the Department expects the number of federally recognized accrediting agencies requiring recognition reviews, interim monitoring, compliance reporting, and other oversight activities to decline. A smaller number of recognized agencies would reduce the Department's workload associated with recognition petitions, staff reviews, National Advisory Committee on Institutional Quality and Integrity (NACIQI) proceedings, monitoring, and related administrative actions, thereby partially offsetting the implementation costs associated with these proposed regulations.

The proposed regulations may also generate longer-term administrative efficiencies by establishing clearer recognition standards and focusing Department oversight on areas presenting the greatest risk to students and taxpayers. To the extent these reforms improve the efficiency of the recognition process, they could reduce both Federal administrative costs and private-sector compliance burdens over time.

Accordingly, the Department does not anticipate that implementation of these proposed regulations will require significant additional Federal resources. Over time, the Department expects that the offsetting of administrative savings and efficiencies described above may reduce the overall Federal administrative burden associated with oversight of federally recognized accrediting agencies.

4. Additional Benefits

The Department expects the proposed regulations to produce several important benefits that cannot be reliably quantified but that are nevertheless relevant in evaluating the overall effects of the rule.

First, the proposed regulations are expected to increase competition among recognized accrediting agencies. The Department anticipates that reducing unnecessary barriers to the recognition of new accrediting agencies, simplifying the process by which institutions may change accrediting agencies, and eliminating unnecessary geographic distinctions will increase institutional choice and create stronger incentives for accrediting agencies to innovate, improve responsiveness to institutions, and reduce unnecessary costs. While the Department cannot reliably estimate the magnitude of these effects, economic theory and experience in other quality-assurance markets suggest that increased competition is likely to improve quality and efficiency over time.

Second, the proposed regulations are expected to improve transparency and accountability. The proposed requirements regarding transfer-of-credit policies, public disclosure of accrediting actions, institutional representations, and research integrity are intended to provide students, taxpayers, employers, and policymakers with more complete and reliable information regarding institutional quality and performance. Greater transparency improves decision making by prospective students and encourages institutions to maintain high standards. Although these benefits cannot readily be expressed in monetary terms, the Department expects them to improve the functioning of the higher education marketplace.

Third, the proposed regulations are expected to strengthen academic freedom, intellectual inquiry, and the free exchange of ideas. The Department believes that institutions providing an environment in which lawful viewpoints may be expressed and examined, faculty are evaluated without regard to viewpoint or ideology, and students are exposed to a range of scholarly perspectives are better positioned to fulfill the educational purposes recognized by the Higher Education Act. While these educational benefits cannot be quantified, the Department considers them an important component of institutional quality and student learning.

Fourth, the proposed regulations are expected to reduce regulatory uncertainty by more clearly

distinguishing the Department's recognition criteria from accrediting agencies' own substantive accreditation standards. The Department expects that clearer recognition standards, streamlined procedures, and more transparent expectations will reduce unnecessary disputes, improve the efficiency of the recognition process, and allow both accrediting agencies and institutions to devote greater resources to educational quality rather than regulatory compliance. Although these benefits cannot be quantified, they are expected to improve the administration of the Federal recognition process over time.

Finally, the Department expects that the proposed regulations will strengthen public confidence in the accreditation system. By emphasizing educational quality, lawful administration of accreditation standards, research integrity, objective measures of student outcomes, transparency, and institutional accountability, the Department expects the proposed regulations to reinforce public confidence that accreditation serves students and taxpayers while respecting institutional diversity, including intellectual diversity, and mission. Although these effects are inherently difficult to quantify, they are central objectives of the proposed rule.

5. Net Budget Impacts

The changes to accreditation implemented by the proposed regulations are not estimated to have a significant net Federal budget impact. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. A cohort reflects all loans originated in a given fiscal year. The baseline for estimating the cost of these regulations is the President's Budget FY2027 baseline that includes effects of the Working Families Tax Cuts Act and final regulations related to loan limits, repayment plans, and other areas published May 1, 2026¹⁶ and related to Accountability published July 1, 2026.¹⁷

Rules governing accreditation and the roles of actors in the Federal-State-accrediting agency triad have been the subject of several recent rules, including a rule published November 1, 2019¹⁸ that shared the goals of reducing barriers that limit competition, innovations, and new educational

¹⁶ 84 FR 23768.

¹⁷ 91 FR 40136.

¹⁸ 84 FR 58834.

models. Adjustments from the earlier regulations are in the current budget baseline.

The proposed regulations will build on and further those initial efforts to foster innovation and remove regulatory barriers in the accreditation process. This could have offsetting effects on Federal student loan and Pell Grant volumes. If some schools are able to begin or extend their participation in title IV, HEA programs by finding accrediting agencies that support their innovative approaches or missions, that could increase volumes compared to the baseline. On the other hand, accrediting agencies requiring more acceptability of transfer credits or approving experiential credits may allow some students to complete programs faster and reduce loan and grant volumes. The proposed mandate that accrediting agencies require institutions to use data on student-level outcomes to improve performance mitigates concerns that making accreditation changes less burdensome would result in greater defaults or other negative outcomes.

In prior regulations¹⁹ the Department estimated the accreditation reform

would result in volume increases from easier recognition of new accreditors or agencies with an expanded scope to new credential levels, and the option for alternative standards to allow for faster introduction of innovative programs. In 2019, we did not estimate a significant change in repayment performance as institutions with less favorable program outcomes could find more lenient accrediting agencies or institutions with strong programs could take advantage of the flexibility allowed by the substantive change policy revisions to expand their program offerings. At the time we noted the uncertainty of the extent to which increasing accreditation options and encouraging program innovation would shift loan and grant volume among more options for students versus generating new volume and that uncertainty remains. Additionally, greater acceptance of transfer credits may increase volumes by encouraging some students to complete degrees but also may reduce volumes by credits being recognized by the institutions receiving transfers. In retrospect, we know the number of institutions that changed accreditors was fairly low, and it is difficult to

attribute particular changes in volume to accreditation reforms given other economic, demographic, and programmatic developments during the same period.

In the absence of specific evidence that changes in accreditation policy have resulted in significant volume or loan repayment performance changes in the past, the Department does not anticipate a significant budget impact of the proposed regulations. We welcome comments about this conclusion and sources of data or analysis and will consider them when evaluating the potential net budget impact of the final rule.

Accounting Statement

As required by OMB Circular A–4, we have prepared an accounting statement showing the classification of the benefits, costs, and transfers associated with the provisions of these regulations. Table 5.1 provides our best estimate of the changes in annual monetized benefits, costs, and transfers as a result of these proposed regulations.

¹⁹ 84 CFR 58834.

Table 5.1 - Accounting Statement

	Annualized Impact (millions, \$2026)	
	Discount rate = 3%	Discount rate = 7%
Benefits		
Increased transfer credits allowing for faster completion of credentials	Not quantified	
Focus on student-level outcomes in accreditation	Not quantified	
Reduced barriers for new accrediting agencies to obtain Department recognition	Not quantified	
Increased choice of accrediting agencies for institutions	Not quantified	
Encouragement of innovation and new educational models	Not quantified	
Separation of trade associations or affiliated organizations and accrediting agencies may benefit students by reducing unnecessary degree and time requirements to enter certain professions	Not quantified	
Costs		
	Discount rate = 3%	Discount rate = 7%
Reporting costs to borrowers, institutions and accrediting agencies to comply with Paperwork Reduction Act requirements	\$490.3	\$494.2
Costs to accreditors of developing and applying standards related to student outcomes	Not quantified	
Accrediting agency costs to align policies and practices to consider efficiency, include credit for prior learning, and other provisions related to innovation	Not quantified	
Accrediting agency costs to alter legal, operational, and physical structures to separate from trade associations or affiliated organizations	Not quantified	
Institutional costs to improve programs that do not meet new student outcome standards	Not quantified	
Operational costs to close programs that cannot comply with new standards	Not quantified	
Department administrative costs to update guidance documents, internal training, and information systems to administer the proposed regulations.	Not quantified	
Transfers		
	Discount rate = 3%	Discount rate = 7%
Potential reduced payments from students to institutions as increased transfer credits or experiential credit reduces time students need to complete degree	Not quantified	

6. Alternatives Considered

As a part of the development of these regulations, the Department engaged in a negotiated rulemaking process in which we received comments and proposals from non-Federal negotiators representing numerous impacted constituencies on a variety of issues. The proposals were submitted from the constituencies listed under the “Negotiated Rulemaking” heading of this NPRM. Information about these proposals is available on our rulemaking website at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-higher-education-2026>.

The Department worked with the negotiators and continued to provide additional proposed regulatory text for consideration. Due to these efforts, the negotiators reached consensus on the proposed regulations in this NPRM.

Regulatory Flexibility Act

This section considers the effects that the proposed regulations may have on small entities in the Educational Sector as required by the Regulatory Flexibility Act (RFA, 5 U.S.C. *et seq.*, Pub. L. 96–354) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The purpose of the RFA is to establish as a principle of regulation that agencies should tailor regulatory and informational requirements to the size of entities, consistent with the objectives of a particular regulation and applicable statutes.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute unless the agency certifies that the rule will not have a “significant impact on a substantial number of small entities.”

This proposed rule implements regulatory changes to realign the Secretary’s criteria for recognition of accrediting agencies to promote high-quality, high-value, and affordable education for students.

Congress has prohibited the Department from intervening in the curricular decisions of an institution or attempting to exert control over its faculty, administration, or academic programs. Instead, under the HEA, accrediting agencies oversee the quality and academic sufficiency of instructional programs at institutions participating in the title IV, HEA programs. Accrediting agencies are independent, membership-based

organizations that review member institutions or programs to ensure they meet certain standards for academic quality and rigor.

The HEA requires the Secretary to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of the HEA and for other Federal purposes, on the quality of education or training offered by the institutions or programs that they accredit. Such criteria are required to include appropriate measures of student achievement. Consistent with statute, the Secretary has established regulations for recognition of accrediting agencies at 34 CFR part 602 and has revised these regulations periodically.

Executive Order 14279 directed the Secretary to take several actions related to the recognition of accrediting agencies or associations by the Department. Some of these actions require changes to existing regulations. The goal of these regulatory changes is to realign the Secretary’s criteria for recognition of accreditors to promote high-quality, high value, and affordable education for students.

As we describe below, the Department believes that the proposed rule would not have a significant economic impact on a substantial number of institutions of higher education that meet its definition of a small entity because institutions are only indirectly affected by the regulation. The Department estimates that the proposed rule would have a significant economic impact on a substantial number of institutional accreditors that meet the definition of small entities.

Description of, and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply

The Department believes that institutions of higher education are not directly regulated by the proposed rule and could only be indirectly impacted by actions accrediting agencies take in response to the proposed rule. For this reason, the Department does not examine the possible impact of the proposed regulations on small entities that are institutions of higher education. The Department also notes that it is difficult to estimate the impact of the proposed rule on institutions of higher education that are small entities because accrediting agencies have wide discretion in how they implement the proposed changes, and data on the impact of accreditation regulations on institutions are not available. Moreover, as explained in Section 5 of this RIA (“Net Budget Impact”), several of the

proposed regulatory changes are likely to have offsetting revenue effects for institutions, including on institutions of higher education that are small entities. For example, institutions will be subject to new student outcome standards for recognition purposes, which could force some institutions to reform or close programs, negatively affecting their revenues. Policies aimed at increasing credit transfers for students could have similar negative revenue effects on small entities. On the other hand, the proposed rule includes several provisions meant to prevent accrediting agencies from unnecessarily restricting innovation in educational models, which should allow institutions—including small entities—greater operational flexibility, which could increase their revenue. The proposed reforms to increase new entrants and agency switching should also promote greater operational flexibility by creating a more favorable environment for institutions looking to innovate.

The other group directly affected by the proposed regulations are accrediting agencies. Most accrediting agencies are organized as nonprofit entities that are defined as “small entities” if they are independently owned and operated and not dominant in their field of operation. While dominance in accreditation is hard to determine for institutional accreditors, as it currently stands, the Department believes programmatic accrediting agencies—that is, recognized agencies that accredit specific programs within an institution—very often have dominance in their field. This is because there are usually, at most only one or two, and in rare cases multiple, programmatic agencies that provide recognition for a given field or occupation, that is used not only for Federal programs, but also as for educational requirements related to professional licensure.²⁰ Therefore, we do not consider programmatic accrediting agencies to be small entities for the purposes of this analysis, but we welcome comments on this determination and will consider any information received in evaluating the final regulations. This determination is consistent with the Department’s past position on accrediting agency size standards.

The Department believes that institutional accrediting agencies, which

²⁰ In this context, the Department considers the field of programmatic accrediting agencies to include only accrediting agencies that accredit academic programs within the same field of study. This is because programmatic accreditors that accredit programs in one field of study—such as an agency that accredits law programs—do not also accredit programs in any other field of study.

function as gatekeepers to title IV, HEA program funds and are subject to many of the policy changes in the proposed rule, meet the standard for small entities. The Department considers these agencies to be “professional

organizations” as classified under the North America Industry Classification System (813920). The SBA defines small professional organizations as businesses having less than \$24 million in total annual revenue. Each accrediting

agency recognized by the Department as institutional accrediting agencies report annual revenue below this threshold (Table 6.1).

Table 6.1 - Institutional Accrediting Agency Revenues

Agency	Year	Revenue (\$ millions)
Higher Learning Commission (HLC)	2025	17.5
Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)	2025	14.8
WASC Senior College and University Commission (WSCUC)	2025	9.0
Accrediting Commission of Career Schools and Colleges (ACCSC)	2025	8.6
National Accrediting Commission of Career Arts and Sciences, Inc. (NACCAS)	2025	6.6
Northwest Commission on Colleges and Universities (NWCCU)	2024	6.1
New England Commission of Higher Education (NECHE)	2024	5.6
Accrediting Commission for Community and Junior Colleges (ACCJC)	2025	4.9
Council on Occupation Education (COE)	2025	4.8
Distance Education Accrediting Commission (DEAC)	2025	4.7
Middle States Commission on Higher Education (MSCHE)	2025	4.1
Accrediting Council for Continuing Education and Training (ACCET)	2024	3.2
Association for Biblical Higher Education (ABHE)	2025	2.4
Transnational Association of Christian Colleges and Schools (TRACS)	2025	2.0
Association of Advanced Rabbinical and Talmudic Schools (AARTS)	2025	1.6
Association of Institutions of Jewish Studies (AIJS)	2025	0.6

Source: Internal Revenue Service Form 990, PROPUBLICA. This table reports annual revenues from Form 990 for the most-recently available year at the time in which these data were collected. For some entities, this was 2025, while for others it was 2024.

To determine whether the proposed rule would have a significant economic impact on a substantial number of institutional accrediting agencies, the Department estimated the burden the proposed rule would impose on institutional accrediting agencies, which is also included in the Paperwork Reduction Act section of this proposed rule. The proposed rule is estimated to require 470 hours of labor per institution to comply with the proposed regulations because institutional accrediting agencies will need to update their processes, data collection efforts, and reporting activities.

Using the median hourly wage for Education Administrators, Postsecondary (11–9033) from the U.S. Bureau of Labor Statistics (\$50.29 in 2025) and then doubling that figure to account for overhead costs and benefits, the Department estimates that the burden imposed on institutional accreditors is \$47,273.²¹

²¹ The Department is unable to determine which specific workers at a small entity would complete the processing requirements in the proposed regulations. We assume that most individuals who complete the processing fall in the “Education Administrators, Postsecondary” occupational category, who have a median hourly income of \$50.29. However, to provide a high-end estimate,

These new costs will create a significant economic impact on a substantial number of institutional accreditors. For the purposes of this analysis the Department has defined “significant economic impact” as increasing or reducing a small entity’s revenues by more than 3 percent, and a “substantial number of small entities” as more the 5 percent of entities that meet the Department’s definition of a small entity. The \$47,273 estimated burden for institutional accrediting agencies that result from the proposed rule is about 8 percent of the Association of the Institutions of Jewish Studies’ reported annual revenue of approximately \$600,000, exceeding the Department’s threshold of 3 percent. All other agencies would experience less than a 3 percent effect on their revenues. Because there are fewer than 20 institutional accrediting agencies, a single accrediting agency represents over 5 percent of the accreditors and

we repeat our analysis but now assume the processing is completed by lawyers, who have a median hourly wage of \$76.76. Under this assumption, the estimated burden imposed on institutional accrediting agencies would be \$72,154. This alternative estimate does not change the conclusion the Department draws on the proposed regulation’s potential impact on small entities.

therefore exceeds the Department’s threshold for a substantial number.

The Department welcomes comments and data from the public that may help it improve its impact analyses for small entities with respect to the changes in this proposed regulation.

Alternatives Considered (Small Entities)

It is the Department’s general policy to minimize compliance costs and regulatory burden for all regulated entities, especially small entities, and to develop regulations that are consistent with statutory requirements. The Department considered other options and changes to the proposed rule intended to reduce compliance costs and administrative burden for small entities such as whether institutional accreditors who meet the definition of small entities could have fewer reporting requirements, or exemptions from certain aspects of the regulation. As explained above, each currently-recognized institutional accrediting agency is a relatively small non-profit voluntary membership organization and meets the definition of a small entity based on annual revenue volume (see Table 6.1). For that reason, the Department determined that there were the alternatives considered for small

entities would diminish the effectiveness of the proposed regulations for institutional accrediting agencies, which serve as quality gatekeepers for institutions participating in the Federal student assistance programs, under which approximately 13 million students will receive more than \$120 billion in the current year. Furthermore, the Department believes that such alternatives are inconsistent with the Higher Education Act, which establishes specific requirements for recognition of accrediting agencies that the existing regulations implement and which are further enhanced by these proposed regulations, and Executive Order 14279, which directed the Secretary to take specific actions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps

make certain that the public understands the Department’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

This action contains proposed new information collection requirements and amendments to existing collections.

§ 600.11 Special Rules Regarding Institutional Accreditation or Preaccreditation

Summary

This proposed regulation would revise rules regarding the change of an institution’s accreditor. Currently, institutions are required to submit materials to the Department demonstrating a reasonable cause for changing accreditors. Proposed 600.11 removes this requirement unless the Secretary has determined otherwise.

Institutions seeking approval of multiple accreditors will also be required to submit a reasonable explanation for this request. Unless the Secretary determines otherwise, all reasons are acceptable.

Finally, the institution will be required to use all reasonable efforts to notify current students and recent graduates of the change of accrediting agency within 10 days.

Burden

institutions will now be required to submit a form with required information on switching accreditors. Burden for

this requirement will be assessed under a new OMB control number and will be made available for public comment prior to the rule becoming effective.

§ 602.2 How do I know which agencies the Secretary recognizes?

Summary

Proposed section 602.2 explains that the Department will be periodically publishing a list of recognized accreditors along with additional accreditor action activities on its website.

Burden

The Department will be responsible for publishing the list of accreditors. There is no additional burden on accrediting agencies for this proposed regulation.

§ 602.3 What definitions apply to this part?

Summary

Proposed § 602.3 revises some key definitions and adds new definitions used in these regulations.

Burden

Accrediting agencies and institutions will be required to review the new definitions and update internal policies and procedures to ensure they are compliant with the new regulations. The Department believes it will take institutions and accreditors 10 hours to review, update, and make any relevant changes required to be in compliance with the proposed regulations. The Department anticipates this will be a one-time burden.

Entity	Responses	Hours	Burden hours
Public	1,806 institutions	10	18,060
Private	1,649 institutions 50 accrediting agencies =1,699 total	10	16,990
For Profit	1,546 institutions	10	15,460
Total	5,051 .....	.....	50,510

§ 602.10 Link to Federal Programs

Summary

Requires that agencies demonstrate a link to a Federal program in order to seek recognition by the Secretary.

Burden

No additional burden because changes made to this section are technical in nature. They strengthen the language that agencies must demonstrate a link to a Federal program in order to be recognized by the Secretary.

§ 602.11 Extent of Accrediting Activities

Summary

The Department proposes that the agency must identify the extent of its accrediting activities and demonstrate that it has the capacity, policies, and procedures necessary to conduct accrediting activities within the identified extent.

An agency may seek recognition to operate in a group of States, or in all States, but the Secretary does not assign, prefer, or limit geographic extent, except

as necessary to ensure that the agency has the capacity to carry out its intended accrediting activities.

Burden

The Department does not believe proposed 602.11 will result in additional burden on accrediting agencies. This change is to reiterate that accrediting agencies are not bound by geographic location, for example a State or a region.

§ 602.12 Accrediting Experience

Summary

Proposed 602.12 explains the experience an accreditor must have in order to be recognized by the Department.

Burden

Burden for the proposed regulation is assessed elsewhere throughout the proposed changes and requirements of accreditation.

§ 602.13 Effect of Recognition

Summary

This proposed regulation makes clear that existing Federal and State antitrust laws apply to all agencies recognized by the Secretary.

Burden

The Department does not believe this adds additional burden.

§ 602.14 Purpose and Organization

Summary

Proposed § 602.14 explains that the agency must be “separate or independent” from any related, associated, or affiliated trade association or professional organization. We also eliminate the regulations permitting a waiver of the separate or independent requirement.

To comply, we propose that agencies are prohibited from any joint use of personnel, services, equipment, or facilities by an agency at a related, associated, or affiliated trade association or professional organization. In addition, the regulations also propose that the agency has established and implemented conflict of interest control for each member of the decision-making body.

Under current rules, agencies could potentially restrict access to employment in a profession, occupation, or vocation. This could be done by increasing credentialing standards, increasing cost, or decreasing availability of education or training. Under the proposed regulations this would not be permitted unless the agency provides notice of clear and convincing evidence to the Secretary.

Finally, under this proposed rule, the authorized representative of the agency must submit a signed statement certifying that it has met the requirements to be separate and independent. This certification must also include information regarding any complaints received during the current recognition period.

Burden

The proposed change under § 602.14 (a)(4)(ii) removes the ability for an agency to request a waiver to the “separate and independent” requirements will increase burden for agencies that currently have a waiver and purely programmatic agencies. We estimate there are 25 agencies that could be impacted by this change in regulation. These agencies will need to evaluate if they are in a building with a related, associated, or trade organization. If so, the proposed regulations would require that agency to move. The Department estimates it will take 5 hours for agencies to review and evaluate whether or not the regulations would require them to move. We anticipate that around half of these agencies will have to move and we believe it would take 40 hours for agencies to determine the need to move, research moving, and complete the move. Adding a one-time burden of 605 hours.

25 Agencies × 5 Hours = 125 Burden Hours

12 Agencies moving × 40 Hours to move = 480 Burden Hours

The proposed change under § 602.14(b)(6) requires an authorized representative of the agency to submit a signed statement certifying that it has meet the requirements to be “separate and independent” will increase burden.

The Department estimates the changes under § 602.14(b)(6) will take an agency five hours to complete the statement and obtain the necessary signature annually.

50 Accrediting Agencies × 5 Hours = 250 Burden Hours

§ 602.15 Administrative and Fiscal Responsibilities.

Summary

Proposed § 602.15 explains that the agency must have the administrative and fiscal capability, including conflict of interest controls, to carry out its accreditation activities. Under current regulations, conflict of interest controls are not included in the administrative and fiscal responsibilities regulations. With this proposed rule, agencies will now be required to have conflict of interest controls.

Section 602.15 proposes training be provided to agency representatives and staff, focusing on best practices and avoiding unnecessary costs. The regulations also propose an agency will cooperate with other agencies and the Department to develop common accreditation templates.

Burden

The Department estimates that it will take each accrediting agency 30 hours to create, review and update conflict of interest controls.

50 Accrediting Agencies × 30 Hours = 1,500 Burden Hours

Creating training for representatives and staff would create burden on accrediting agencies. We estimate it would take 18 hours for an agency to create or research appropriate training for their staff. The Department anticipates this will be an ongoing burden.

50 Accrediting Agencies × 18 Hours = 900 Burden Hours

§ 602.16 Accreditation and Pre-Accreditation Standards

Summary

We propose to add the word “lawful” to § 602.16(f), clarifying that an agency may establish any additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity, as it deems appropriate.

Burden

The Department does not believe this change adds or reduces burden to this regulation.

§ 602.17 Application of Standards in Reaching Accreditation Decisions

Summary

Section 602.17 provides more information on the expectations of the standards for accreditation that agencies must follow. Agencies must have policies that uniformly and consistently apply their accreditation standards to the institutions or programs they accredit. The Department proposes adding more details to an agency’s required accreditation requirements with regard to educational objectives, student success, faculty performance and evaluation, facilities, academic freedom, and intellectual diversity.

Agencies would also be required under 602.17 to complete a cost benefit analysis which would be a review of an institution’s budget, practices regarding administration of financial aid, and maintenance of an institution’s facilities.

Burden

Agencies may already have policies and procedures in place that address the proposed requirements. To comply with proposed 602.17 agencies must review the new regulations and assess whether or not policies need to be updated, written, or both. We estimate this would

take an agency approximately 160 hours to review and update policies to comply with 602.17.

50 Accreditors $\times$ 160 Hours = 8,000 Burden Hours

An agency would now be required to perform a cost-benefit analysis for each institution it accredits. There are about 50 accreditors and 5,001 Title IV postsecondary institutions. We estimate each cost benefit analysis would take an average of 150 hours. This results in 750,150 additional burden hours. The Department believes this will be an annual burden.

Average of 10 Institutions/Accreditor $\times$ 50 Accreditors (Respondents) = 5,001 Responses

5,001 Responses $\times$ 150 Hours = 750,150 Burden Hours

§ 602.18 Ensuring Consistency in Decision-Making

Summary

We propose to add new paragraph § 602.18(b)(4) that states that the agency meets the requirement in paragraph (a) of this section if the agency “has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards.

Burden

Burden for this proposed regulation has already been accounted for elsewhere in this section.

§ 602.20 Enforcement of Standards

Summary

Under § 602.20(e) we propose that any agency’s arbitration standard or policy must be nonbinding, except that both parties may agree to binding arbitration after a dispute arises on a case-by-case basis. We propose under § 602.20(h) to require an agency to have a policy about the circumstances for restoring accreditation, including retroactive restoration, to an institution. § 602.20(i) was redesignated from § 602.18(d).

Burden

The Department estimates that there will be a one time burden on accrediting agencies that do not currently have retroactive accreditation policies. We believe it would take an accrediting agency 30 hours to create such a policy.

50 Accrediting Agencies $\times$ 30 Hours = 1,500 Burden Hours.

The accreditation guidance²² on non-binding arbitration language has been in

effect since December 5, 2023, therefore, we do not believe this creates additional burden.

§ 602.21 Review of Standards

Summary

We propose to amend § 602.21 to require an accrediting agency to maintain a comprehensive systematic program of review that occurs at regular intervals, involves all relevant constituencies (including students), and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and is relevant to the educational or training needs of students. We propose rescinding paragraphs (b), (c), and (d) of 602.21.

Burden

The Department estimates that there will be an annual burden reduction due to the proposed reduction in regulations. The last time burden was assessed for this regulation it was estimated that reviewing standards would take approximately 12 hours for 53 accrediting agencies to complete. We now estimate 50 accrediting agency responses at 8 hours per accreditor resulting in a decrease of 2,000 hours of burden and a decrease of 3 responses.

§ 602.22 Substantive Changes and Other Reporting Requirements

Summary

The proposed changes to § 602.22 would clarify, streamline, and reduce the types of situations that are defined in the agency’s definition of substantive change.

Burden

The Department believes the proposed changes to § 602.22 would reduce reporting burden on institutions and processing burden on accrediting agencies. The definition of substantive change would apply to a more precise set of situations, arrives at a better balance of needed oversight, and returns some degree of deference to the agencies to make the decisions on what the substantive changes are and how they are processed.

We estimate there will be a reduction of 16 burden hours on agencies annually.

50 Accrediting Agencies $\times$ 16 Hours = 800 less Burden Hours

Eligibility, and Arbitration—<https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2023-11-03/regulations-governing-recognition-accrediting-agencies-institutional-eligibility-and-arbitration-updated-dec-5-2023>.

§ 602.23 Operating Procedures All Agencies Must Have

Summary

We propose to include preaccredited institutions under the requirements of paragraph § 602.23(c)(1). Currently, there is only a requirement to review complaints received against an accredited institution.

Under paragraph § 602.23(c)(3) we proposed to include a requirement to review conflicts of interest and mandate documentation of actions when an accrediting agency reviews a complaint.

The Department proposes to amend § 602.23(d) to require that the accrediting agency requires its accredited institutions or programs to publicly disclose any action by the agency that begins the enforcement timeline in § 602.20(a) or (b).

Under proposed § 602.23, the agency must not have policies that require institutions or programs to violate any Federal or State law. The agency must also have internal controls to ensure compliance with antitrust laws.

Proposed § 602.23(k) requires agencies have a timely procedure to accelerate the comprehensive accreditation process for an institution or program seeking initial accreditation.

Lastly, under proposed § 602.23(l), the agency must establish and maintain at least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency.

Burden

In 2019 we estimated that it would take 2 hours for each accrediting agency to comply with § 602.23. For proposed 602.23 we estimate that it would take an additional two hours to review the new requirements and update their policies and procedures, as necessary. We believe this will be an annual burden.

53 Accrediting Agencies $\times$ 2 Hours = 106 Burden Hours

§ 602.24 Additional Procedures Certain Institutional Agencies Must Have

The proposed regulations would codify the requirement that a site visitor accompany accrediting agency staff during on-site reviews, clarify when institutions must submit teach out plans and agreements, and establish clear timelines and documentation expectations. The proposed regulations would also enhance transparency and student support by requiring accrediting agencies to coordinate teach outs, ensure transcript access and transfer

²² DCL GEN-23-14—Regulations Governing the Recognition of Accrediting Agencies, Institutional

pathways, and notify other agencies when cross agency agreements are approved. Additionally, institutions would be required to update and publicly disclose comprehensive transfer of credit policies, adopt consistent criteria for evaluating comparable credits, prohibit discriminatory denials, and provide students with an appeals process.

Current regulations do not distinguish between the circumstances requiring institutions to provide teach-out plans versus teach-out agreements. Under the proposed regulations, institutions would be required to submit a teach-out plan within 30 days when specified events occur, such as when an institution's certification status changes from full to provisional. On the other hand, teach-out agreements would be required within the same 30-day window when institutions experience triggering events that signal heightened operational risk, including financial concerns or adverse actions. To ensure institutions act promptly when they are unable to secure a teach-out agreement, the Department proposes a new requirement mandating that institutions provide their accrediting agency and the State with documentation explaining why a teach-out agreement could not be secured within 30 days. In addition, institutions in this situation would be required to notify the Department, which may then require the institution to provide proof of financial protection

to safeguard students in the event of closure.

Current regulations require accrediting agencies to evaluate elements of teach out agreements that go beyond what the HEA requires, while at the same time providing only limited and insufficient contingency measures for institutions that close. Under the proposed regulations, accrediting agencies would be required to coordinate with institutions to secure teach-out agreements, review teach-out plans and agreements and confirm that students retain access to transcripts and transfer pathways. In addition, if a teach-out agreement includes a program or institution that is accredited by another recognized accrediting agency accrediting, the accrediting agency must notify the other accrediting agency of its approval.

Burden

The proposed regulations would remove several overly prescriptive requirements that are unsupported in the statutory framework. The removal of these requirements would decrease unnecessary burdens on teach-out institutions and accrediting agencies. However, several other provisions in proposed § 602.24 would create burden on institutions and accrediting agencies.

Requiring a site visitor to accompany accrediting agency staff during on-site visits would create burden as some accrediting agencies would need to

assign someone to be present during site visits. The Department believes the burden would be minimal as many accrediting agencies already have a site visitor present during on-site reviews. Accrediting agencies would also be required to request and review documents from institutions and maintain communication with institutions and State agencies. Accrediting agencies would be required to review the new regulations (10 hours), identify the scope of the new requirements (20 hours), amend policies and procedures (40 hours), train staff (100 hours), and update relevant systems (300 hours). The Department estimates that this will take approximately 470 hours per accrediting agency.

Institutions would be required to prepare teach-out plans and agreements to comply with expanded transparency and student protection requirements. Institutions would also need to review, update, and publish transfer of credit policies according to the proposed changes. Institutions would be required to review the new regulations (10 hours), identify the scope of the new requirements (20 hours), amend policies and procedures (40 hours), train staff (100 hours), and update relevant systems (300 hours). The Department estimates that this will take approximately 470 hours one-time per institution.

Entity	Respondents	Hours	Burden hours
Public	1,806	470	848,820
Private	1,649	470	775,030
For Profit	1,546	470	726,620
Total	5,001	.....	2,350,470

§ 602.25 Due Process

Summary

Proposed 602.25 would rescind the requirement that an appeals panel not only serve an advisory or procedural role and instead have authority, and that the appeals panel affirms, amends, or remands the adverse action.

Burden

The Department does not believe this proposed change would result in any change in burden.

§ 602.26 Notification of Accrediting Decisions

Summary

Proposed 602.26 slightly amends the requirements for accrediting agencies to report accrediting decisions to the

Secretary. Agencies will now be required to maintain a record of all actions taken for each institution or program it accredits on its website for a period of at least five years.

Burden

Proposed § 602.26 would now require agencies to maintain on its website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years. This adds burden to accrediting agencies as complying with the new regulation requires agencies to expand their monitoring and reporting processes. Agencies will need to review the new requirements and create a process to ensure their website is compliant with this proposed rule. Agencies may also have to update their

systems or train staff to keep their website up to date with actions taken for each institution or program. We believe this will add 100 burden hours per year.

100 burden hours × 50 accrediting agencies = 5,000 burden hours

§ 602.27 Other Information an Agency Must Provide the Department

Summary

Proposed § 602.27 would require more frequent updates of an agency's accredited and preaccredited institutions and programs to the Department's website directory. The proposed reporting requirements would require agencies to submit regular and timely updates throughout the year rather than an annual list.

Burden

Complying with these new regulations would require agencies to expand their reporting processes to allow for more frequent reporting submissions to the Department. Agencies are already accustomed to reporting actions taken. In 2023 the Department estimated that each website update would take an agency 20 minutes to complete. Under the proposed rules, we estimate this would take an average of 2 hours per update. More frequent updates will also increase burden for this regulation. Currently, accrediting agencies are required to submit an update to the Department's website directory once per year. Under the proposed regulation, agencies would be required to submit regular and timely updates throughout the year.

If an agency updates the Department's website directory four times per year, this would increase burden to 8 additional burden hours per agency per year.

50 Accrediting Agencies × 8 Hours = 400 Burden Hours under 1845–0838 Accrediting Agencies Reporting Activities for Institutions and Programs—Database of Accredited Postsecondary Institution and Programs (DAPIP).

§ 602.28 Regard for Decisions of States and Other Accrediting Agencies

Summary

Proposed § 602.28 would require accrediting agencies to expand the function of reviewing the accreditation or preaccreditation of certain institutions and allow agencies to place institutions on a show cause or equivalent status. This would allow agencies to more precisely specify that programs, not just institutions, are subject to review by an agency when another recognized agency has initiated an adverse action or placed a program on probation or an equivalent status. We also propose expanding the other recognized agencies to include State and Federal agencies to allow for increased accountability for institutions or programs subject to negative or adverse actions by those entities.

Burden

Complying with these new regulations would require agencies to expand their institutional review processes. We believe this would require 30 additional burden hours per year.

50 Accrediting Agencies × 30 Hours = 1,500 Burden Hours

§ 602.30 Agency Applications and Reports To Be Submitted to the Department

Summary

The proposed regulations would modernize how accrediting agencies submit applications and reports to the Department. The submission timeline and concurrent submission requirements would be removed, and there would be a new requirement for an accrediting agency to submit a written application to the Secretary if it seeks a contraction of scope. The proposed regulations would also prohibit an accrediting agency from prematurely redacting business and other non-PII information in its applications and reports submitted to the Department.

Burden

602.30 would add burden to accrediting agencies. Currently, there is no requirement for an agency to apply for a contraction of scope. We believe that 10 accrediting agencies will apply for a contraction of scope each year. In 2019 the Department estimated it would take 20 hours per expansion of scope application. Using a similar estimate, we estimate it would take 20 hours to complete a contraction of scope application. If 10 agencies submit a contraction of scope application this would add 200 burden hours per year.

10 Accrediting Agencies × 20 Hours = 200 total burden hours

§ 602.30 Procedures for Submitting Applications for Recognition and Renewal of Recognition

Summary

The proposed regulations would remove the application process for recognition or renewal of recognition that is currently identical for all agencies and instead provide specific instructions and requirements based on agency activities.

Under proposed § 602.31, when the institutions accredited by an agency receive a substantial portion of all Title IV, HEA program funds, the agency is required to submit a comprehensive application for recognition. When not designated for review under the institutional accrediting agency would submit an application demonstrating its adherence to the regulatory requirements. When submitting information to the Department, agencies are no longer required to redact certain information prior to submission.

Burden

Proposed section 602.30 would slightly reduce burden on accrediting

agencies. In 2019 the Department estimated that 53 accrediting agencies would require 285 additional hours of burden be added to this section. The Department is now removing the 53 responses and 285 burden hours to account for the reduction in requirements.

§ 602.32 Procedures for Review of an Expansion of Scope, a Contraction of Scope, Compliance Reports, or Increases in Headcount Enrollment

Summary

We propose new processing requirements for expansions and contractions of scope, compliance reports, and increases in headcount. Specifically, under proposed § 602.32(a)(1) and (2) the Department will consider applications for an expansion or contraction of an accrediting agency's scope only when submitted together with an application for recognition, unless Department staff, at their discretion, elect to review such a request independently.

For compliance reports, Department staff will complete its evaluation and a draft analysis. The draft along with any materials received by the Department be sent to the agency identifying any potential areas of noncompliance. The agency will be invited to submit a written response within at least 45 days.

Under proposed § 602.32(c), reports related to increases in headcount enrollment submitted pursuant to proposed § 602.30(d) will be processed by the Department using the same procedures applicable to compliance reports.

Burden

The Department estimates there will be 12 agencies invited to respond to a written compliance report per year. We believe this response would take an agency 15 hours to outline, draft, complete, and transmit it to the Department.

12 Accrediting Agencies × 15 Hours = 180 Burden Hours

§ 602.33 Procedures for Review of Agencies During the Period of Recognition, Including the Review of Monitoring Reports

Summary

The proposed regulations would modernize and streamline the procedures for review of agencies during the period of recognition, including the review of monitoring reports. We propose adding a new section as § 602.33(c) ensuring accrediting agencies are provided with any documentation as a result of an

inquiry being made under § 602.33(a)(2) and are given an opportunity to respond within 45 days. Previously agencies were permitted 90 days.

Burden

Proposed 602.33 does not contain any new information collection requirements. The Department does not believe changing the timeframe from 90 days to 45 days will result in additional burden on agencies.

§ 602.34 Advisory Committee Meetings

Summary

The proposed regulations would require the National Advisory Committee on Institutional Quality and Integrity (NACIQI) to review applications for contractions of scope. The Department also proposes accrediting agencies post public notice of upcoming NACIQI reviews.

Burden

Agencies will now be required to post notices of upcoming reviews to be completed by NACIQI. The Department believes this will take 2 hours per agency per year to determine if notification is necessary and publish any relevant information.

50 Accrediting Agencies × 2 Hours =
100 Burden Hours

§ 602.35 Responding to the Advisory

Committee's Recommendation., § 602.36 Senior Department Official's Decision., § 602.37 Appealing the Senior Department Official's Decision to the Secretary

Summary

We propose to make several technical, non-substantive edits to § 602.35, § 602.36, and § 602.37.

Burden

These edits do not require additional burden on the affected entities.

§ 668.43 Institutional and Programmatic Information

Summary

Institutions will be required to provide a description of the transfer of credit policies specific to each prospective student prior to them making a nonrefundable financial commitment, enrollment, or

registration. If an institution declines to award credit for a course, they must provide a written explanation to the student as to why they were not awarded transfer credit and provide information on courses that *could* be awarded transfer credit.

Under current regulations, institutions are required to provide students with information regarding their credit transfer policies. In certain situations, schools are also required to notify students prior to enrollment if curriculum is not found to be adequate to satisfy the State educational requirements for licensure or certification in the State where the student is located.

Similarly, under proposed regulations, institutions would now be required to inform students of the credit(s) that will or will not be awarded based on the student's submitted transcripts if they are submitted within a certain timeframe. When an institution declines to award a credit, the institution must provide a written explanation as to why they declined to award the credit and provide information and examples of courses that otherwise would be awarded credit.

A student who receives the disclosure with the transcript deadline may have already, at one point or another, submitted their transcript to their institution. In this situation, a student would not be required by regulation to submit their transcript again in order for an institution to consider transfer credit so long as the institution has what it needs prior to the date they prescribe in their disclosure.

Burden

Proposed § 668.43 would create burden on institutions. Institutions would be required to update their processes for the transmission of required student disclosures to ensure the requirements of the proposed regulation are met. Institutions will also need to create new policies and procedures to comply with the proposed requirements. This includes potentially creating new procedures to accommodate the review of transcripts prior to a prospective student making a nonrefundable financial commitment to the institution. For simplicity and to keep the burden low, the Department

believes most institutions will send their required disclosures to students electronically.

Institutions will be required to review the new regulations (10 hours), identify the scope of the new requirements (20 hours), amend policies and procedures (40 hours), train staff (100 hours), and update relevant systems (300 hours). The Department estimates that this will take approximately 470 hours per institution one time.

This proposed regulation contains burden for students, too. Students will receive a disclosure which must now include a date for which the student must submit transcripts for consideration of transfer credits. The Department estimates it would take a student an average of one hour to transmit their transcripts for this purpose.

There are approximately 20,000,000 students enrolled at title IV institutions. An estimated 17% of those students will have transcripts to submit to their institution for consideration. This is about 3,400,000 students. Of those students, we believe 90 percent (3,060,000) will submit their transcripts prior to the institution's prescribed deadline.

If it takes one hour for a student to transmit the required transcripts, this is a total of 3,060,000 hours of burden 3,060,000 responses. As explained in question 1 of this supporting statement, this burden will be merged with 1845–0022 once the Department has published all final regulations and has received OMB approval of related collections.

Estimated Annual Burden and Respondent Costs Table

For institutions, we used the median hourly wage for Education Administrators, Postsecondary (11–9033) from the U.S. Bureau of Labor Statistics. In 2025 this was \$50.29. To account for overhead costs and benefits, the Department has multiplied this wage by two, resulting in hourly costs of \$100.58.

In 2025 the median hourly wage for all occupations was \$24.51. For consistency purposes, we have also doubled this wage to \$49.02.

BILLING CODE 4000–01–P

Information Collection Request

Regulation	OMB Control #	Burden Hours	# of Responses	Costs
§ 600.11 Special rules regarding institutional accreditation or preaccreditation	1845-NEW	NEW	NEW	NEW
§ 602.2 How do I know which agencies the Secretary recognizes?	NA	NA	NA	NA
§ 602.3 What definitions apply to this part?	1840-0788	10 hours x 5,051 responses = 50,510 additional burden hours	5,051 responses	50,510 hours x \$100.58 = \$5,080,296
§ 602.10 Link to Federal programs.	NA	NA	NA	NA
§ 602.11 Extent of accrediting activities.	NA	NA	NA	NA
§ 602.12 Accrediting experience.	NA	NA	NA	NA
§ 602.13 Effect of recognition.	NA	NA	NA	NA
§ 602.14 Purpose and organization.	1840-0788	5 hours x 25 accrediting agencies x 5 hours = 125 burden hours 12 agencies moving X 40 hours to move = 480 burden hours	87 Responses	855 hours x \$100.58 = \$85,996

		50 accrediting agencies x 5 hours = 250 burden hours 125 + 480 + 250 = 855 burden hours		
§ 602.15 Administrative and fiscal responsibilities .	1840- 0788	50 accrediting agencies X 30 hours = 1,500 burden hours 50 accrediting agencies X 18 hours = 900 burden hours 1500 + 900 = 2,400 burden hours	100 responses	2,400 x \$100.58 =\$241,938
§ 602.16 Accreditation and pre- accreditation standards.	NA	NA	NA	NA
§ 602.17 Application of standards in reaching accreditation decisions.	1840- 0788	50 Accreditors x 160 Hours = 8,000 burden hours Average of 10 institutions/ accreditor x 50 accreditors (respondents) = 5,001 responses 8,000+750,150 = 758,150 burden hours	5,051 Responses	758,150 Burden Hours x \$100.58 = \$76,254,72 7

§ 602.18 Ensuring consistency in decision-making.	NA	NA	NA	NA
§ 602.20 Enforcement of standards.	1840- 0788	50 accrediting agencies x 30 hours = 1500 burden hours	50 Responses	1,500 x \$100.58= \$150,870
§ 602.21 Review of standards.	1840- 0788	=2,000 fewer burden hours	3 fewer Responses	\$100.58 x -2,000 Burden hours = - \$201,160
§ 602.22 Substantive changes and other reporting requirements.	1840- 0788	50 accrediting agencies x - 16 hours of burden = 800 fewer burden hours	3 fewer Responses	\$100.58 x - 800 burden hours = - \$80,464
§ 602.23 Operating procedures all agencies must have.	1840- 0788	50 accrediting agencies x 2 hours = 100 burden hours	50 responses	\$100.58 x 100 = \$10,058
§ 602.24 Additional procedures certain institutional agencies must have.	1840- 0788	5,001 responses x 470 hours =2,350,470 burden hours	5,001 responses	2,350,470 x \$100.58 =\$236,410, 273
§ 602.25 Due process.	NA	NA	NA	NA
§ 602.26 Notification of accrediting decisions.	1840- 0838	50 accrediting agencies x 8 hours = 5,000 burden hours.	50 responses	\$100.58 x 5,000 burden hours = \$502,900
§ 602.27 Other information an agency must provide the Department.	1845- 0838	50 accrediting agencies x 8 hours = 400 burden hours	50 responses	\$100.58 x 400 burden hours x agencies = \$40,232

§ 602.28 Regard for decisions of States and other accrediting agencies.	1840-0788	50 accrediting agencies x 30 Hours = 1,500 burden hours	50 responses	1500 burden hours x \$100.58 = \$150,870
§ 602.30 Agency applications and reports to be submitted to the Department.	1840-0788	10 accrediting agencies x 20 hours = 200 total burden hours	10 responses	200 burden hours x \$100.58 = \$20,116
§602.31 Procedures for submitting applications for recognition and renewal of recognition.	1840-0788	285 fewer burden hours	53 fewer responses	-285 hours x \$100.58 = -\$28,665
§602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.	1840-0788	12 accrediting agencies x 15 hours = 180 burden hours	12 responses	180 burden hours x \$100.58 = \$18,104
§ 602.33 Procedures for review of agencies during the period of recognition, including the review of monitoring reports.	NA	NA	NA	NA
§ 602.34 Advisory Committee meetings.	1840-0788	50 accrediting agencies x 2 hours = 100 burden hours	50 responses	100 burden hours x \$100.58 = \$10,058

§ 602.35 Responding to the Advisory Committee's recommendation., § 602.36 Senior Department official's decision., § 602.37 Appealing the senior Department official's decision to the Secretary.	NA	NA	NA	NA
§ 668.43 Institutional and programmatic information.	1845- NEW *after the Departmen t received OMB approval, we will merge this new collectio n with 1845-0022 Student Assistanc e General Provision s	3,060,000 student responses and 3,060,000 student burden hours. 5,001 institutional responses and 2,350,470 institutional burden hours.	5,410,470 responses	3,065,001 Burden Hours X \$100.58 = \$386,411,4 72 3,060,000 X \$49.02= \$150,001,2 00 student costs 2,350,470 X \$100.58 = \$236,410,2 72 institutio nal costs \$386,411,4 73 total costs
TOTAL		8,578,750 burden hours	5,426,023 responses	\$705,077,6 22

BILLING CODE 4000-01-C

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34

CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and strengthened Federalism. The Executive

Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Education Impact

In accordance with Section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

Executive Order 13132 requires us to provide meaningful and timely input by State and local elected officials in the development of regulatory policies that have Federalism implications. “Federalism implications” means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed regulations do not have Federalism implications.

Accessible Format: On request to the program contact person(s) listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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List of Subjects

34 CFR Part 600

Colleges and universities, Foreign relations, Grant programs—education,

Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education

34 CFR Part 602

Colleges and universities, Reporting and recordkeeping requirements

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Grant programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education

Nicholas Kent,

Under Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education proposes to amend parts 600, 602 and 668 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

■ 2. Amend § 600.11 by revising paragraphs (a) and (b) to read as follows:

§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

(a) *Change of accrediting agencies.*

(1) For purposes of §§ 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides the following to the Secretary:

(i) All materials related to its prior accreditation or preaccreditation.

(ii) Materials demonstrating reasonable cause for changing its accrediting agency. The Secretary will determine such cause to be reasonable unless the Secretary determines that the institution is seeking the change in order to—

(A) Evade or circumvent a requirement of Federal law or regulation;

(B) Avoid or delay enforcement or oversight by the Department or an accrediting agency;

(C) Obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or

(D) Otherwise undermine the integrity of the title IV, HEA programs.

(2) The institution must publicly disclose within 10 business days on its website and make reasonable efforts to notify all current students, and recent graduates for whom they have active contact information, of the change of accrediting agency.

(b) *Multiple accreditation.*

(1) An institution may obtain accreditation or preaccreditation from more than one accrediting agency recognized by the Secretary if the institution provides the following to the Secretary:

(i) Materials related to its prior accreditation or preaccreditation;

(ii) A written explanation showing reasonable cause for having multiple accreditors. The Secretary will determine such cause to be reasonable unless the Secretary determines that the institution is seeking to be accredited by more than one accrediting agency in order to—

(A) Evade or circumvent a requirement of Federal law or regulation;

(B) Avoid or delay enforcement or oversight by the Department or an accrediting agency;

(C) Obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or

(D) Otherwise undermine the integrity of the title IV, HEA programs.

(2) The Secretary will not determine the cause of having multiple accrediting agencies to be unreasonable due to a withdrawal, revocation, other termination of accreditation, probation or equivalent, show cause order, or suspension order.

* * * * *

PART 602—THE SECRETARY'S RECOGNITION OF ACCREDITING AGENCIES

■ 3. The general authority citation for part 602 continues to read as follows:

Authority: 20 U.S.C. 1099b, unless otherwise noted.

■ 4. Amend § 602.2 by revising the section to read as follows:

§ 602.2 How do I know which agencies the Secretary recognizes?

(a) Periodically, the Secretary publishes a list of recognized agencies in the **Federal Register**, together with each agency's scope of recognition. You may obtain a copy of the list from the Department at any time. The list is also available on the Department's website.

(b) If the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency's recognition before the end of its

recognition period, the Secretary publishes an announcement of that action on the Department's website, which includes the reasons for the action and date it was taken, and also publishes such information of the list and scope of recognized agencies published in the **Federal Register** pursuant to subsection (a).

* * * * *

■ 5. Amend § 602.3 by revising the section to read as follows:

§ 602.3 What definitions apply to this part?

(a) The following definitions are contained in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

- (1) Accredited.
- (2) Additional location.
- (3) Branch campus.
- (4) Correspondence course.
- (5) Direct assessment program.
- (6) Distance education.
- (7) Nationally recognized accrediting agency.
- (8) Preaccreditation.
- (9) Religious mission.
- (10) Secretary.
- (11) State.
- (12) Teach-out.
- (13) Teach-out agreement.
- (14) Teach-out plan.

(b) The following additional definitions apply to this part:

Accreditation means the status of public recognition that an accrediting agency grants to an institution or program that meets the agency's standards and requirements.

Accrediting agency or agency means a legal entity, or that part of a legal entity, that conducts accrediting activities through voluntary, non-Federal review, that may include peer review, and makes decisions concerning the accreditation or preaccreditation status of institutions, programs, or both.

Act means the Higher Education Act of 1965, as amended.

Adverse accrediting action or adverse action means the denial, withdrawal, suspension, revocation, or termination of accreditation or preaccreditation, or any comparable accrediting action an agency may take against an institution or program.

Advisory Committee means the National Advisory Committee on Institutional Quality and Integrity.

Compliance report means a written report that the Department requires an agency to file when the agency is found to be out of compliance to demonstrate that the agency has corrected deficiencies specified in the decision letter from the senior Department official or the Secretary. Compliance

reports must be reviewed by Department staff and the Advisory Committee and approved by the senior Department official or, in the event of an appeal, by the Secretary.

Designated Federal Official means the Federal officer designated under section 10(f) of the Federal Advisory Committee Act, 5 U.S.C. Appdx. 1.

Final accrediting action means a final determination by an accrediting agency regarding the accreditation or preaccreditation status of an institution or program. A final accrediting action is a decision made by the agency, at the conclusion of any appeals process available to the institution or program under the agency's due process policies and procedures.

Institution means an educational institution that meets the requirements of paragraph (1) of the definition of *eligible institution* found in 34 CFR 600.2.

Institutional accrediting agency means an agency that accredits institutions.

Monitoring report means a report that an agency is required to submit to Department staff when it is found to be substantially compliant. The report contains documentation to demonstrate that—

- (i) The agency is implementing its current or corrected policies; or
- (ii) The agency, which is compliant in practice, has updated its policies to align with those compliant practices.

Program means a postsecondary educational program offered by an institution that leads to an academic or professional degree, certificate, or other recognized educational credential.

Programmatic accrediting agency means an agency that accredits specific educational programs, including those that prepare students in specific academic disciplines or for entry into a profession, occupation, or vocation.

Recognition means an unappealed determination by the senior Department official under § 602.36, or a determination by the Secretary on appeal under § 602.37, that an accrediting agency complies with the criteria for recognition listed in subpart B of this part and that the agency is effective in its application of those criteria. A grant of recognition to an agency as a reliable authority regarding the quality of education or training offered by institutions or programs it accredits remains in effect for the term granted except upon a determination made in accordance with subpart C of this part that the agency no longer complies with the subpart B criteria or that it has become ineffective in its application of those criteria.

Related, associated, or affiliated trade association means an organization that:

- (i) is generally a membership organization;
- (ii) is organized to promote a line of commerce, business, industry, or profession;
- (iii) does not engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member; and
- (iv) is related to a particular accrediting agency in that the agency accredits institutions or programs that prepare students to enter the workforce of the same or substantially the same line of commerce, business, industry, or profession that organization promotes.

Representative of the public means a person who is not—

- (1) An employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or preaccredited by the agency or has applied for accreditation or preaccreditation;
- (2) A member of any trade association or membership organization related to, associated with, or affiliated with the agency; or
- (3) A spouse, parent, child, or sibling of an individual identified in paragraph (1) or (2) of this definition.

Scope of recognition or *scope* means the range of accrediting activities for which the Secretary recognizes an agency. The Secretary may place a limitation on the scope of an agency's recognition for title IV, HEA purposes. The Secretary's designation of scope defines the recognition granted according to—

- (i) Types of degrees and certificates covered;
- (ii) Types of institutions and programs covered;
- (iii) Types of preaccreditation status covered, if any; and
- (iv) Coverage of accrediting activities related to distance education or correspondence courses.

Senior Department official means the official in the U.S. Department of Education designated by the Secretary who has, in the judgment of the Secretary, appropriate seniority and relevant subject matter knowledge to make independent decisions on accrediting agency recognition.

Substantial compliance means the agency demonstrated to the Department that it has the necessary policies, practices, and standards in place and generally adheres with fidelity to those policies, practices, and standards; or the agency has policies, practices, and standards in place that need minor

modifications to reflect its generally compliant practice.

* * * * *

■ 6. Amend § 602.10 by revising the section to read as follows:

§ 602.10 Link to Federal programs.

(a) If the agency is seeking renewal of recognition and the agency accredits institutions, it must demonstrate that its accreditation is a required element in enabling at least one of those institutions to establish eligibility to participate in the title IV, HEA programs. If, pursuant to 34 CFR 600.11(b), an agency accredits one or more institutions that participate in the title IV, HEA programs and that could designate the agency as its link to the title IV, HEA programs, the agency satisfies this requirement, even if the institution currently designates another institutional accrediting agency as its Federal link; or

(b) If the agency is seeking renewal of recognition and the agency accredits institutions or programs, or both, it must demonstrate that its accreditation is a required element, as stated in a Federal statute, Federal regulation, Federal grant or funding announcement, or other official Federal agency notice establishing eligibility requirements for participation in the program, in enabling at least one of those entities to establish eligibility to participate in non-HEA Federal programs and provide documentation that an institution or program is currently relying on the agency's accreditation as a condition of eligibility to participate in such programs.

(c)(1) If the agency is seeking initial recognition, it must demonstrate that an institution or program it accredits is likely to rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency within two years.

(2) In the event the agency does not have an institution or program that is relying upon the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program when the agency is recognized by the Department, it must report to the Secretary when the first institution or program it accredits begins relying upon its accreditation for such purposes.

(3) If, after two years after initial recognition, there are no institutions or programs that rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency, then the

agency ceases to be recognized by the Department.

* * * * *

■ 7. Amend § 602.11 by revising the section to read as follows:

§ 602.11 Extent of accrediting activities.

(a) The agency must identify the extent of its accrediting activities and demonstrate that it has the capacity, policies, and procedures necessary to conduct accrediting activities within the identified extent.

(b)(1) An agency may seek recognition to operate in a group of States, or in all States, but the Secretary does not assign, prefer, or limit geographic extent, except as necessary to ensure that the agency has the capacity to carry out its intended accrediting activities.

(2) The Secretary may not assign institutions or programs to accrediting agencies; restrict institutions or programs from seeking accreditation from any agency recognized by the Secretary; directly or indirectly discourage institutions or programs from seeking accreditation from another recognized agency through policy, guidance, communications, or other actions; or otherwise favor one recognized accrediting agency over another.

(3) The Secretary may not delay, condition, or otherwise adversely affect an institution's participation in title IV, HEA programs solely because the institution seeks accreditation from, or changes accreditation to, another agency recognized by the Secretary.

* * * * *

■ 8. Amend § 602.12 by revising the section to read as follows:

§ 602.12 Accrediting experience.

(a) An agency seeking initial recognition must demonstrate that it has sufficient accreditation experience prior to submitting an application for recognition. An agency will be eligible to submit an application for recognition when it can show the following—

(1) The agency is legally established to operate in the relevant jurisdiction;

(2) The agency has adopted accreditation standards consistent with § 602.16;

(3) The agency has adopted operating procedures consistent with § 602.23; and

(4) The agency has established a process to accept applications for accreditation consistent with § 602.17 and has at least one institution or program which has submitted an application for accreditation.

(b) An agency seeking initial recognition must undergo the Secretary's recognition process, defined

in § 602.31, and an evaluation of the agency's compliance with the Secretary's recognition criteria, defined in 34 CFR part 602, for the purpose of determining if the agency is a reliable authority as to the quality of education or training provided by the institutions or programs it accredits before its application for recognition may be considered by the Advisory Committee.

(c) The agency must have granted accreditation to one or more institutions if it is requesting recognition as an institutional accrediting agency and to one or more programs if it is requesting recognition as a programmatic accrediting agency before the agency may be granted recognition.

(d)(1) A recognized agency seeking an expansion or contraction of its scope of recognition must follow the requirements of § 602.32 and demonstrate that it has accreditation or preaccreditation policies in place that meet all the criteria for recognition covering the range of the specific degrees, certificates, institutions, and programs it seeks in its proposed scope. A change to an agency's geographic area of accrediting activities does not constitute an expansion or contraction of the agency's scope of recognition, but the agency must notify the Department of, and publicly disclose on the agency's website, any such change.

(2) An agency that cannot demonstrate experience in making accreditation or preaccreditation decisions under expanded scope at the time of its application or review for an expansion of scope may—

(i) If it is an institutional accrediting agency, be limited in the number of institutions to which it may grant accreditation under the expanded scope for a designated period of time; or

(ii) If it is a programmatic accrediting agency, be limited in the number of programs to which it may grant accreditation under that expanded scope for a certain period of time;

(iii) Be required to submit a monitoring report regarding accreditation decisions made under the expanded scope; and

(e) Experience qualifying under this section is not limited to the accreditation of institutions within a particular geographic area and may include experience obtained on a national, State or group of States, or programmatic basis.

* * * * *

■ 9. Add § 602.13 by revising the reserved section to read as follows:

§ 602.13 Effect of recognition.

(a) Recognition under this part does not confer immunity or any relief from

Federal or State antitrust laws. Accrediting agencies, institutions, and programs remain subject to those laws notwithstanding recognition or eligibility determinations made by the Department.

(b) Recognition under this part does not authorize collective action among accrediting agencies, institutions, or programs that would otherwise be subject to oversight under Federal or State law.

(c) Recognition under this part does not create a property interest or entitlement to continued recognition.

* * * * *

■ 10. Amend § 602.14 by revising the section to read as follows:

§ 602.14 Purpose and organization.

(a) The Secretary recognizes only the following four categories of accrediting agencies:

(1) A State agency that—

(i) Has as a principal purpose the accrediting of institutions, programs, or both; and

(ii) Has been listed by the Secretary as a nationally recognized accrediting agency on or before October 1, 1991.

(2) An accrediting agency that—

(i) Has a voluntary membership of institutions;

(ii) Has as a principal purpose the accrediting of institutions and that accreditation is used to provide a link to Federal HEA programs in accordance with § 602.10; and

(iii) Satisfies the “separate and independent” requirements in paragraph (b) of this section.

(3) An accrediting agency that—

(i) Has a voluntary membership; and
(ii) Has as its principal purpose the accrediting of institutions or programs, and the accreditation it offers is used to provide a link to Federal programs in accordance with § 602.10.

(4) An accrediting agency that, for purposes of determining eligibility for title IV programs—

(i) (A) Has a voluntary membership of individuals participating in a profession; or

(B) Has as its principal purpose the accrediting of programs within institutions that are accredited by another nationally recognized accrediting agency; and

(ii) Satisfies the “separate and independent” requirements in paragraph (b) of this section.

(b) For purposes of this section, “separate and independent” means that—

(1) The members of the agency’s decision-making body, who decide the accreditation or preaccreditation status of institutions or programs, establish the

agency’s accreditation policies, or both, are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or professional organization and are not staff of the related, associated, or affiliated trade association or professional organization;

(2) At least one member of an agency’s decision-making body is a representative of the public, and at least one-seventh of the body consists of representatives of the public;

(3) The agency has established and implemented mandatory conflict of interest controls for each member of the decision-making body in accordance with § 602.15(e);

(4) The agency’s dues are paid and held separately from any dues paid to any related, associated, or affiliated trade association or professional organization;

(5) The agency develops and determines its own budget, without review by or in consultation with any other entity or organization, including any related, associated or affiliated trade association or professional organization;

(6) The authorized representative of the agency submits a signed statement certifying that it has met the requirements to be “separate and independent” within each petition for recognition submitted to the Department, and includes in that statement information regarding any complaints received during the current recognition period that are material.

* * * * *

■ 11. Amend § 602.15 by revising the section to read as follows:

§ 602.15 Administrative and fiscal responsibilities.

The agency must have the administrative and fiscal capability, including conflict of interest controls, to carry out its accreditation activities in light of its requested scope of recognition. The agency meets this requirement if the agency demonstrates that—

(a) The agency has—

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

(2) Competent and knowledgeable individuals, qualified by education or experience in their own right, as appropriate for their roles;

(3) Training provided to all agency representatives and staff that includes topics related to best practices in various educational delivery methods, models, and modalities; innovative or lower-cost educational delivery models that may provide high-quality education to students; and avoiding unnecessary

costs to institutions in the accreditation process; and

(4) Representatives of the public on all decision-making bodies.

(b) The agency maintains complete and accurate records of—

(1) Its last full accreditation or preaccreditation review of each institution or program, including on-site evaluation team reports, the institution’s or program’s responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution’s or program’s most recent self-study if applicable; and

(2) All decision letters issued by the agency regarding the accreditation and preaccreditation of any institution or program and any substantive changes.

(c) The agency conducts its accreditation activities in a manner that seeks to avoid unnecessary financial, compliance, and administrative burdens, including by avoiding duplicative reporting, excessive documentation requirements, and unwarranted prescriptive processes.

(d) The agency will cooperate with other agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies.

(e) The agency has clear and effective controls, including guidelines, to—

(1) Prevent or resolve conflicts of interest, or the appearance of conflicts of interest, by the agency’s—

(i) Officers and directors;

(ii) Employees (including temporary, part-time, and full-time employees);

(iii) Evaluation team members;

(iv) Consultants and contractors;

(v) Volunteers; and

(vi) Other agency representatives.

(2) Ensure that members of the standards-setting body, which may include members of the decision-making body, do not vote as members of the decision-making body on the setting of standards or policies that affect any institution or program of which such a member is an officer, director, or employee;

(3) Determine its dues without review by any related, associated, or affiliated trade association or professional organization;

(4) Disallow shared resources, such as personnel, services, equipment, facilities, or information technology, nor have office space in the same building as any related, associated, or affiliated trade association or professional organization. The requirement in this paragraph for separate office space will take effect one year after the effective date of this section;

(5) Ensure that any officers, directors, employees, or volunteers of the agency do not share or solicit feedback regarding the agency's policies, standards, or decisions with respect to any institution or program from any related, associated, or affiliated trade association or professional association;

(6) Prominently disclose on its website all relationships with related, associated, or affiliated trade associations or professional organizations; and

(7)(i) Not act to restrict access to employment in a profession, occupation, or vocation unless the agency provides notice of clear and convincing evidence to the Secretary that:

(A) the restriction is necessary to protect the public interest;

(B) the expected public benefits outweigh the costs to the public from reduced access to the profession, occupation, or vocation; and

(C) no less restrictive alternative would adequately protect the public interest.

(ii) For the purposes of this subsection, restricting access to employment includes:

(A) taking steps to increase credentialing standards;

(B) increasing the cost or level of required education or training; or

(C) decreasing the availability of education or training in a manner that may benefit any related, associated, or affiliated trade association or professional organization.

(f) The agency's accreditation standards, policies, and enforcement practices must not restrict public institutions from fulfilling their obligations under the First Amendment to the Constitution of the United States. These standards similarly also must not restrict any private institutions that, through their institutional policies, guarantee the same or similar protections for students or faculty, unless the institution has a religious mission.

* * * * *

■ 12. Amend § 602.16 by revising the section to read as follows:

§ 602.16 Accreditation and preaccreditation standards.

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if the following conditions are met:

(1) The agency's accreditation standards must establish requirements for the institutions or programs it accredits in the following areas:

(i) Success with respect to student achievement at the institutional and program level in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, course completion, and job placement rates, as described in § 602.17(a)(1).

(ii) Curricula.

(iii) Faculty.

(iv) Facilities, equipment, and supplies.

(v) Fiscal and administrative capacity as appropriate to the specified scale of operations.

(vi) Student support services.

(vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.

(viii) Measures of program length and the objectives of the degrees or credentials offered.

(ix) Record of student complaints received by, or available to, the agency.

(x) Record of compliance with the institution's program responsibilities under title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and

(2) The agency's preaccreditation standards, if offered, must—

(i) Be appropriately related to the agency's accreditation standards; and

(ii) Not permit the institution or program to hold preaccreditation status for more than five years before a final accrediting action is made.

(b) Agencies are not required to apply the standards described in paragraph (a)(1)(x) of this section to institutions that do not participate in title IV, HEA programs. Under such circumstance, the agency's grant of accreditation or preaccreditation must specify that the grant does not include participation by the institution in title IV, HEA programs.

(c) If the agency only accredits programs and does not serve as an institutional accrediting agency for any of those programs, its accreditation standards must address the areas in paragraph (a)(1) of this section in terms of the type and level of the program rather than in terms of the institution.

(d)(1) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of

institutions or programs offering distance education, correspondence courses, or direct assessment education, the agency's standards must effectively address the quality of an institution's distance education, correspondence courses, or direct assessment education in the areas identified in paragraph (a)(1) of this section.

(2) The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence courses.

(e) If none of the institutions an agency accredits participates in any title IV, HEA program, or if the agency only accredits programs within institutions that are accredited by a nationally recognized institutional accrediting agency, the agency is not required to have the accreditation standards described in paragraphs (a)(1)(viii) and (a)(1)(x) of this section.

(f) An agency that has established and applies the standards in paragraph (a) of this section may establish any additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate.

(g) Nothing in paragraph (a) of this section restricts—

(1) An accrediting agency from setting, with the involvement of its members, and applying accreditation standards for or to institutions or programs that seek review by the agency;

(2) An institution from developing and using institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review; or

(3) Agencies from having separate standards regarding an institution's or a program's process for approving curriculum to enable programs to more effectively meet the recommendations of—

(i) Industry advisory boards that include employers who hire program graduates;

(ii) Widely recognized industry standards and organizations;

(iii) Credentialing or other occupational registration or licensure; or

(iv) Employers in a given field or occupation, in making hiring decisions.

(4) Agencies from having separate faculty standards for instructors teaching courses within a dual or concurrent enrollment program, as defined in 20 U.S.C. 7801, or career and technical education courses, as long as the instructors, in the agency's

judgment, are qualified by education or work experience for that role.

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■ 13. Amend § 602.17 by revising the section to read as follows:

602.17 Application of standards in reaching accreditation decisions.

(a) The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if it demonstrates that when reviewing institutions in accordance with the standards the agency establishes under § 602.16, it—

(1) For the purposes of meeting the standards requirements of § 602.16(a)(1)(i), evaluates whether an institution or program—

(i) Maintains clearly specified educational objectives, which may include credit for prior learning, that are consistent with its mission and appropriate in light of the degrees or certificates awarded that are developed, regularly reviewed, and updated using reliable data (which may include Federal or state data);

(ii) As appropriate to its own standards, reviews an institution's student success with respect to student achievement at both the institutional and program levels, including minimum expectations, by assessing:

(A) State licensing or certification examination results, where applicable to the program of study;

(B) Program retention, completion, or graduation rates, including as appropriate the extent to which grades meaningfully reflect student learning and support progression through the program of study;

(C) Post-completion or graduation outcomes, including employment and continued education;

(D) Scores on relevant standardized assessments taken for admission to a higher-level degree, during and after the time of enrollment at an institution, as available; and

(E) Educational and economic returns aligned to the program's credential level, length, and occupational context relative to the total cost of attendance. Such returns shall be assessed using the earnings data calculated under 34 CFR 668 Subpart Q, enhanced Unemployment Insurance wage records, or other reliable earnings data available to the agency.

(2) When applying its standards according to § 602.16(a)(1)(iii) on

faculty, evaluates whether an institution maintains:

(i) A sufficient number of appropriately qualified faculty and other subject matter instructors who are regularly evaluated on the performance of their instructional, research, or service responsibilities;

(ii) Written faculty performance evaluation policies that include defined performance criteria and are conducted on a periodic basis;

(iii) Academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission. If an institution has a religious mission, the agency evaluates whether the institution maintains academic freedom protections that are consistent with the institution's religious mission and applied consistently to faculty regardless of appointment classification, race, or other immutable characteristics;

(iv) Sufficient flexibility in instructional staffing policies and procedures to respond to persistent material changes in student demand, program viability, or financial conditions;

(v) In the case of public institutions, consistently applied policies that protect the First Amendment to the Constitution of the United States. The agency should similarly evaluate any private institutions that, through their institutional policies, guarantee the same or similar protections for students or faculty;

(vi) Policies regarding the integrity of scholarly activity and research and practices designed to prevent, detect, and address fabrication, material misrepresentation or falsification, plagiarism, and other forms of research misconduct as well as mechanisms for timely investigation, corrective actions, and, as appropriate, public disclosure;

(vii) A policy or policies to protect civil rights and, as applicable, First Amendment rights, and whether such policy or policies include:

(A) Academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission. If an institution has a religious mission, the agency evaluates whether the institution maintains academic freedom protections that are consistent with the institution's religious mission and applied consistently to faculty regardless of

appointment classification, race, or other immutable characteristics;

(B) Academic freedom and freedom of inquiry protections for faculty in teaching, scholarship and research within the subject matter of a course and research within their academic discipline, including conditions under which a range of academic perspectives may be expressed and examined without adverse action based on lawful viewpoints unrelated to professional or academic competence, unless the institution has a religious mission;

(C) In the case of a private institution, policies that if established guarantee the same or similar protections as those described in subsections (i) and (ii) above.

(viii) A policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty, to include elements that address intellectual inquiry and student learning, and measures student and faculty perceptions on the range of viewpoints and perspectives offered by the institution or program, unless the institution or program has a religious mission. If an institution or program has a religious mission, the policy shall include elements that address intellectual inquiry and student learning that are consistent with the institution's religious mission;

(3) When applying its standards according to § 602.16(a)(1)(iv) and (vi):

(i) A cost/benefit analysis, which means a review by the agency of the institution's budget, resource utilization and allocation, and, if existing, its business/strategic plan, continuous improvement strategic plan, and review of whether the institution considers whether the expected benefits of the institution's activities justify the associated financial, administrative, and opportunity costs and the impact of capital expenditures on future operating expenses;

(ii) A review of an institution's practices and capabilities regarding the administration of student aid programs; and

(iii) A review of the sufficiency and proper maintenance of the institution's facilities and that such facilities comply with applicable safety standards, laws, and regulations.

(4) When applying its standards according to § 602.16(a)(1)(viii), seeks to ensure that program length is appropriate to the objectives of the program and credential awarded at the institution. In applying its standard, the agency must not categorically prohibit or unreasonably restrict the accreditation of a:

(i) Short-term program that is designed to prepare students for employment in recognized occupations eligible for Federal student aid under applicable law; or

(ii) Certificate or degree program offered for a shorter period of time than is traditionally required to obtain that credential, so long as the program results in comparable academic, professional, and employment outcomes for students who would complete such programs.

(b) When applying and determining an institution's or program's compliance with its standards, the agency must:

(1) Require the institution or program to engage in a comprehensive process, that may include a self-study, that assesses the institution's or program's education quality and success in meeting its mission and objectives, highlights opportunities for improvement, and includes a plan for making those improvements;

(2) Conduct at least one on-site review of the institution or program during which it obtains sufficient information to determine if the institution or program complies with the agency's standards;

(3) Allow the institution or program the opportunity to respond in writing to the report of the on-site review;

(4) Conduct its own analysis of the comprehensive process and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other information substantiated by the agency from other sources to determine whether the institution or program complies with the agency's standards;

(5) Provide the institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards, including areas needing improvement, and the institution's or program's performance with respect to student achievement;

(c) When applying its standards, an agency requires institutions to have processes in place through which the institution establishes that a student who registers in any course offered via distance education or correspondence is the same student who academically engages in the course or program; and

(d) When applying its standards, an agency seeks to reduce unnecessary barriers which restrict the ability of institutions or programs from adopting instructional, programmatic, or delivery practices that improve student access, accelerate credential or degree completion, or support innovative

models of postsecondary education, including program length.

(e) The agency has adopted, implements, and enforces written policies and procedures that seek to ensure the accuracy, completeness, and integrity of all representations made by the agency to:

(1) The Secretary;

(2) The public, including current and prospective students;

(3) State, Tribal, and other governmental authorities; and

(4) Institutions or programs it accredits or preaccredits.

(f) The agency has policies that the agency:

(1) Does not knowingly make false, misleading, or materially incomplete statements regarding:

(i) The accreditation or preaccreditation status of any institution or program; or

(ii) The scope, conditions, or implications of accreditation or preaccreditation; and

(iii) Compliance of an institution or program with applicable Federal or State law.

(2) Maintains procedures for the prompt correction of materially inaccurate public statements or disclosures;

(3) Maintains procedures for investigating credible allegations that the agency or its representatives made materially inaccurate or misleading representations; and

(4) Takes appropriate corrective or disciplinary action when the agency determines that materially inaccurate or misleading representations have occurred.

(g) The agency may not have standards that encourage, direct, or otherwise require institutions or programs to violate Federal or State law, including by having policies that provide any preferences on the basis of race.

(h) Nothing in this section shall be construed to require any action that would conflict with applicable Federal or State law.

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■ 14. Amend § 602.18 by revising the section to read as follows:

§ 602.18 Ensuring consistency in decision-making.

(a) The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education, correspondence courses, or direct assessment education is of

sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period.

(b) The agency meets the requirement in paragraph (a) of this section if the agency—

(1) Has written specification of the requirements for accreditation and preaccreditation that include clear standards for an institution or program to be accredited or preaccredited;

(2) Has effective controls against the inconsistent application of the agency's standards;

(3) Bases decisions regarding accreditation and preaccreditation on the agency's published standards and does not use as a negative factor the institution's religious mission-based policies, decisions, and practices in the areas covered by § 602.16(a)(1)(ii), (iii), (iv), (vi), and (vii) provided, however, that the agency may require that the institution's or program's curricula include all core components required by the agency;

(4) Has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards, except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints.

(5) Has a reasonable basis for determining that the information the agency relies on for making accrediting decisions is accurate; and

(6) Provides the institution or program with a detailed written report that clearly identifies any deficiencies in the institution's or program's compliance with the agency's standards.

(7) Publishes any policies for retroactive application of an accreditation decision, which must not provide for an effective date that predates either—

(i) An earlier denial by the agency of accreditation or preaccreditation to the institution or program; or

(ii) The agency's formal approval of the institution or program for consideration in the agency's accreditation or preaccreditation process.

(c) This section does not prohibit an agency from reducing barriers that limit institutions and programs from adopting practices that advance credential and degree completion and that promote new models of education by applying equivalent written standards, policies, and procedures that provide alternative means of satisfying one or more of the requirements set forth in §§ 602.16, 602.17, 602.19, 602.20, 602.22, and 602.24, as compared with written

standards, policies, and procedures the agency ordinarily applies, if—

(1) The alternative standards, policies, and procedures, and the selection of institutions or programs to which they will be applied, are approved by the agency's decision-making body and otherwise meet the intent of the agency's expectations and requirements;

(2) The agency sets and applies equivalent goals and metrics for assessing the performance of institutions or programs;

(3) The agency's process for establishing and applying the alternative standards, policies, and procedures is set forth in its published accreditation manuals; and

(4) The agency requires institutions or programs seeking the application of alternative standards to demonstrate the need for an alternative assessment approach, that students will receive equivalent benefit, and that students will not be harmed through such application.

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■ 15. Amend § 602.20 by revising the section to read as follows:

§ 602.20 Enforcement of standards.

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must—

(1) Follow its written policy for notifying the institution or program of the finding of noncompliance;

(2) Provide the institution or program with a written timeline for coming into compliance that is reasonable, as determined by the agency's decision-making body, based on the nature of the finding, the stated mission, and educational objectives of the institution or program. The timeline may include intermediate checkpoints on the way to full compliance and must not exceed the lesser of four years or 150 percent of the—

(i) Length of the program in the case of a programmatic accrediting agency; or

(ii) Length of the longest program at the institution in the case of an institutional accrediting agency;

(3) Follow its written policies and procedures for granting a good cause extension that may exceed the standard timeframe described in paragraph (a)(2) of this section when such an extension is determined by the agency to be warranted; and

(4) Have a written policy to evaluate an institution's or program's progress in resolving the finding of noncompliance.

(b) Notwithstanding paragraph (a) of this section, the agency must have a policy for taking an immediate adverse

action, and take such action, when the agency has determined that such action is warranted.

(c) If the institution or program does not bring itself into compliance within the period specified in paragraph (a) of this section, the agency must take adverse action against the institution or program, but may maintain the institution's or program's accreditation or preaccreditation until the institution or program has had reasonable time to complete the activities in its teach-out plan or to fulfill the obligations of any teach-out agreement to assist students in transferring or completing their programs.

(d) An agency that accredits institutions may limit the adverse or other action to particular programs that are offered by the institution or to particular additional locations of an institution, without necessarily taking action against the entire institution and all of its programs, provided the noncompliance was limited to that particular program or location.

(e) All adverse actions taken under this subpart are subject to the arbitration requirements in 20 U.S.C. 1099b(e). Any agency arbitration standard or policy must be nonbinding, except that both parties may agree to binding arbitration after a dispute arises on a case-by-case basis. If an agency has an arbitration policy or standard, it must:

(1) Apply to all final adverse actions; however, an agency may require the institution or program to first exhaust the agency's appeal process;

(2) Ensure that the arbitration process is fair and impartial; and

(3) Provide for a transparent and reasonable period of time for resolution of disputes.

(f) An agency is not responsible for enforcing requirements in 34 CFR 668.14, 668.15, 668.16, 668.41, or 668.46, but if, in the course of an agency's work, it identifies instances or potential instances of noncompliance with any of these requirements, it must notify the Department.

(g) The Secretary may not require an agency to take action against an institution or program that does not participate in any title IV, HEA or other Federal program as a result of a requirement specified in this part.

(h) The agency must have a policy for restoring accreditation (including retroactive restoration) in circumstances that the agency determines are appropriate, including if required by an applicable judicial decision.

(i) Nothing in this part prohibits an agency from permitting the institution or program to be out of compliance with one or more of its standards, policies,

and procedures adopted in satisfaction of §§ 602.16, 602.17, 602.19, 602.22, and 602.24 for a period of time, as determined by the agency annually, not to exceed three years unless the agency determines there is good cause to extend the period of time and if—

(1) The agency and the institution or program can show that the circumstances requiring the period of noncompliance are beyond the institution's or program's control, such as—

(i) A natural disaster or other catastrophic event significantly impacting an institution's or program's operations;

(ii) Accepting students from another institution that is implementing a teach-out or closing;

(iii) Significant and documented local or national economic changes, such as an economic recession or closure of a large local employer;

(iv) Changes in State licensure requirements;

(v) Instructors who do not meet the agency's typical faculty standards but who are otherwise qualified by education or work experience to teach courses within a dual or concurrent enrollment program, as defined in 20 U.S.C. 7801, or career and technical education courses;

(2) The grant of the period of noncompliance is approved by the agency's decision-making body;

(3) The agency projects that the institution or program has the resources necessary to achieve compliance with the standard, policy, or procedure within the time allotted; and

(4) The institution or program demonstrates to the satisfaction of the agency that the period of noncompliance will not—

(i) Increase the cost of the program to the student without the student's consent;

(ii) Create any undue hardship on, or harm to, students; or

(iii) Compromise the program's academic quality.

(5) The agency timeline must include the enforcement of intermediate checkpoints that allow the agency to ensure the institution will be in full compliance by the end of the timeline.

(6) An extension under this provision can only be granted by the agency if the special circumstances constitute a new and independent cause for the non-compliance.

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■ 16. Amend § 602.21 by revising the section to read as follows:

§ 602.21 Review of standards.

The agency must maintain a comprehensive systematic program of

review that occurs at regular intervals, involves all relevant constituencies (including students), and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and is relevant to the educational or training needs of students.

* * * * *

■ 17. Amend § 602.22 by revising the section to read as follows:

§ 602.22 Substantive changes and other reporting requirements.

(a)(1) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change, as defined in this section, after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if—

(i) The agency requires the institution to obtain the agency's approval of substantive change defined in subparagraph (ii) before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

(ii) The agency's definition of substantive change covers at least the following:

(A) Any substantial change in the established mission or objectives of the institution or its programs.

(B) Any change in the legal status, form of control, or ownership of the institution that results in a change of control.

(C) The addition of programs that represent a significant departure from the existing offerings or educational programs, or method of delivery, from those that were offered or used when the agency last evaluated the institution.

(D) The addition of graduate programs by an institution that previously offered only undergraduate programs or certificates.

(E) An increase in the level of credential awarded for successful completion of one or more programs.

(F) The acquisition of any other institution or any program or location of another institution not otherwise reviewed as part of a change of control transaction or the process for the addition of a location.

(G) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

(H) The addition of a new location or branch campus, except as provided in paragraph (c) of this section. The institution must document its fiscal and administrative capability to operate the location or branch campus, including verification of the following:

(1) Academic control by the institution.

(2) The institution has adequate faculty, facilities, resources, and academic and student support systems in place.

(3) The institution is financially stable.

(4) The institution had appropriate planning for the addition.

(I) Entering into a written arrangement under 34 CFR 668.5 under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent but less than 50 percent of one or more of the accredited institution's educational programs.

(J) Addition of each direct assessment program.

(K) Addition of the first prison education program at the first two additional locations and the first additional prison education program offered by a new method of delivery.

(2)(i) For substantive changes under only paragraph (a)(1)(ii)(C), (E), (G), or (I) of this section, the agency's decision-making body may designate agency senior staff to approve or disapprove the request in a timely, fair, and equitable manner; and

(ii) In the case of a request under paragraph (a)(1)(ii)(I) of this section, the agency must make a final decision within 90 days of receipt of a materially complete request, unless the agency or its staff determine significant circumstances related to the substantive change require a review by the agency's decision-making body to occur within 180 days.

(b) Institutions that have been placed on probation or equivalent status, have been subject to negative action by the agency over the prior three academic years, or are under a provisional certification, as provided in 34 CFR 668.13, must receive prior approval for the following additional changes (all other institutions must report these changes within 30 days to their accrediting agency or as directed by their accrediting agency):

(1) A change in the way an institution measures student progress, including whether the institution measures progress in clock hours or credit hours, semesters, trimesters, or quarters, or uses time-based or non-time-based methods.

(2) A substantial increase in the number of clock hours or credit hours awarded.

(3) Entering into a written arrangement under 34 CFR 668.5 under which an institution or organization not certified to participate in the title IV, HEA programs offers up to 25 percent of one or more of the accredited institution's educational programs.

(c) Institutions that have successfully completed at least one cycle of accreditation and have received agency approval for the addition of at least two additional locations as provided in paragraph (a)(1)(ii)(H) of this section, and that have not been placed on probation or equivalent status or been subject to a negative action by the agency over the prior three academic years, and that are not under a provisional certification, as provided in 34 CFR 668.13, need not apply for agency approval of subsequent additions of locations, and must report these changes to the accrediting agency within 30 days, if the institution has met criteria established by the agency indicating sufficient capacity to add additional locations without individual prior approvals, including, at a minimum, satisfactory evidence of a system to ensure quality across a distributed enterprise.

(d) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date on which the change is included in the program's or institution's grant of accreditation or preaccreditation. The date of prior approval must not pre-date either an earlier agency denial of the substantive change, or the agency's formal acceptance of the application for the substantive change for inclusion in the program's or institution's grant of accreditation or preaccreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership.

(e) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

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■ 18. Amend § 602.23 by revising the section to read as follows:

§ 602.23 Operating procedures all agencies must have.

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(c) The accrediting agency must—

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited or preaccredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself, to include conflict of interest violations, and take follow-up action, as appropriate, based on the results of its review, and document such complaints and actions.

(d) The agency must require its accredited institutions or programs to publicly disclose any action by the agency that begins the enforcement timeline in § 602.20(a) or (b). When an institution or program makes such a disclosure or elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately, including the specific academic or instructional programs covered by that status, the reason(s) for the action, and the name and contact information for the agency.

(e) The accrediting agency must provide for the public correction of incorrect or misleading information an accredited or preaccredited institution or program releases about—

(1) The accreditation or preaccreditation status of the institution or program;

(2) The contents of reports of on-site reviews; and

(3) The agency's accrediting or preaccrediting actions with respect to the institution or program.

(f) All credits and credentials earned and issued by an institution or program holding preaccreditation from a nationally recognized agency are considered by the Secretary to be from an accredited institution or program.

(g) The agency may establish any additional operating procedures it deems appropriate. At the agency's discretion, these may include unannounced inspections.

(h) The agency must not have policies that require institutions or programs to violate any Federal or State law, including Title VI of the Civil Rights Act

of 1964, 42 U.S.C. 2000d *et seq.*, and Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.* (Title IX), which means, among other things, that agencies must not have policies that require institutions or programs to provide unlawful preferences to students, faculty, staff, contractors, or any employees based upon their race, color, national origin, or sex, including in admissions, hiring, and the selection of contracts.

(i) The agency must have internal controls to ensure compliance with antitrust laws, including by ensuring that the agency does not directly or indirectly facilitate coordination or collusive activities that are anticompetitive among institutions or programs or unnecessarily restrict access to employment in an occupation.

(j) The agency must refrain from reviewing aspects of institutional governance of public institutions that are established by State law, including the appointment of institutional directors or officers by elected or appointed State officials.

(k) The agency may have a timely procedure to accelerate the comprehensive accreditation process for an institution or program seeking initial accreditation. An institution or program would be eligible to access this process if, at a minimum, it—

(1) Holds current accreditation from another nationally recognized accrediting agency; and

(2)(i) Meets the requirements of § 600.11; or

(ii) Is impacted by a decision by the senior Department official or Secretary to terminate an agency's recognition.

(l) The agency must establish and maintain at least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency concerns related to the agency's accreditation standards or the institution's or program's compliance therewith. Such mechanism(s) must be designed to ensure that information received is substantive and manageable in volume. Permissible mechanisms include, but are not limited to, any one or more of the following:

(1) A registration process through which students, staff, or faculty may sign up to participate in structured meetings with agency representatives during scheduled site visits or virtual visits, subject to reasonable limits on the number of participants and appointment availability; or

(2) Randomized panels of students, staff, or faculty selected by the

accrediting agency or its authorized representatives to participate in confidential interviews or focus groups during site visits, conducted in a manner that ensures a representative cross-section of the institutional community.

(3) Student, faculty, staff surveys independently administered by the agency as part of an initial or renewal of accreditation process which minimally address the standards areas required by § 602.16(a).

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■ 19. Amend § 602.24 by revising the section to read as follows:

§ 602.24 Additional procedures certain institutional agencies must have.

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(b) *Site visits.* The agency must undertake a site visit that cannot be conducted solely by agency staff to a new branch campus or following a change of ownership or control as soon as practicable, but no later than six months, after the establishment of that campus or the change of ownership or control.

(c) *Teach-out plans and agreements.*

(1) The agency must require an institution it accredits to submit a teach-out plan as defined in 34 CFR 600.2 within 30 days to the agency for approval upon the occurrence of any of the following events:

(i) For a nonprofit or proprietary institution, the Secretary notifies the agency of a determination by the institution's independent auditor expressing doubt about the institution's ability to operate as a going concern or indicating an adverse opinion or a finding of material weakness related to financial stability.

(ii) The agency acts to place the institution on probation or equivalent status.

(iii) The Secretary notifies the agency that the institution's participation in title IV, HEA programs has changed from full to provisional certification.

(2) The agency must require an institution it accredits or preaccredits to submit a teach-out agreement (as defined in 34 CFR 600.2) to the agency for approval upon the occurrence of any of the following events:

(i) The Secretary notifies the agency that it has placed the institution on the reimbursement payment method under 34 CFR 668.162(c) or the heightened cash monitoring payment method requiring the Secretary's review of the institution's supporting documentation under 34 CFR 668.162(d)(2).

(ii) The Secretary notifies the agency that the Secretary has initiated an emergency action against an institution,

in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA.

(iii) The agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iv) The institution notifies the agency that it intends to cease operations entirely or close a location that provides one hundred percent of at least one program, including if the location is being moved and is considered by the Secretary to be a closed school, unless the institution is completing its own teach-out.

(v) A State licensing or authorizing agency notifies the agency that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(3) If an institution is unable to secure a teach-out agreement within 30 days with another institution as required under paragraph (c)(2) of this section—

(i) The institution must provide documentation to the agency and the State detailing why a teach-out agreement cannot be secured; and

(ii) The institution must notify the Department that a teach-out agreement cannot be secured and if this is the case, the Department may require the institution to provide financial protection.

(4) The agency must evaluate the teach-out plan to ensure it includes a list of currently enrolled students, academic programs offered by the institution, a plan to maintain and provide access to transcripts in the event of closure, and the names of other institutions that offer similar programs and that could potentially enter into a teach-out agreement with the institution.

(5) If the agency approves a teach-out plan or a teach-out agreement that includes a program or institution that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

(6) The agency may require an institution it accredits or preaccredits to enter into a teach-out agreement as part of its teach-out plan.

(7) The agency must require an institution to include in its teach-out agreement—

(i) A complete list of students currently enrolled in each program at the institution and the program requirements each student has completed;

(ii) A plan to provide all potentially eligible students with information about how to obtain a closed school discharge

and, if applicable, information on State refund policies;

(iii) A record retention plan to be provided to all enrolled students that delineates the final disposition of teach-out records (e.g., student transcripts, billing, financial aid records);

(iv) Information on the number and types of credits the teach-out institution is willing to accept prior to the student's enrollment; and

(v) A clear statement to students of the tuition and fees of the educational program and the number and types of credits that will be accepted by the teach-out institution.

(8) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, to submit that teach-out agreement for approval. The agency may approve the teach-out agreement only if the agreement meets the requirements of 34 CFR 600.2 and this section, is consistent with applicable standards and regulations, and provides for the equitable treatment of students being served.

(9) Irrespective of any teach-out plan or signed teach-out agreement, the agency must not permit an institution to serve as a teach-out institution under the following conditions:

(i) The institution is subject to the conditions in paragraph (c)(1) or (2) of this section.

(ii) The institution is under investigation, subject to an action, or being prosecuted for an issue related to academic quality, misrepresentation, fraud, or other severe matters by a law enforcement agency.

(10) The agency is permitted to waive requirements regarding the percentage of credits that must be earned by a student at the institution awarding the educational credential if the student is completing his or her program through a written teach-out agreement or transfer.

(d) *Closed institution.* If an institution the agency accredits or preaccredits closes without a teach-out plan, the agency must work with the Department and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges, including by—

(i) Working with institutions to secure teach-out agreements;

(ii) Where a teach-out agreement cannot be arranged, working with institutions identified in the teach-out plan to secure transfer options with those institutions;

(iii) Making teach-out or transfer options, the terms of such options, and

information on obtaining transcripts, loan discharges, and reimbursement publicly available on the agency's website; and

(iv) Sharing such information with appropriate State agencies and, as applicable, with other recognized accrediting agencies.

(e) *Transfer of credit policies.* The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies which include provisions that—

(1) Are publicly disclosed in accordance with 34 CFR 668.43(a)(11) and include general policies for specific academic standards, time limits, and curricular requirements for acceptance of credits;

(2) Include a comprehensive statement of all transfer of credit criteria established by the institution, which must consider the comparability and applicability of coursework completed or credit earned at another institution accredited by an agency recognized by the Secretary;

(3) Do not deny the transfer of credit based on the institution at which the student completed the coursework or the agency that accredits that institution, so long as the agency is recognized by the Secretary;

(4) Award transfer credit for undergraduate programs for coursework that has been successfully completed at another institution that is accredited by an agency recognized by the Secretary and is comparable in content and learning outcomes to the institution's own course offerings, unless the institution provides a written basis for denial under 34 CFR 668.43(c)(4) in accordance with its academic standards or curricular requirements; and

(5) Provide the student an opportunity to appeal the decision within 15 calendar days of receipt of the institution's written notification if an institution declines to award transfer credit under paragraph (4).

(f) *Agency designations.* In its accrediting practice, the agency must—

(1) Adopt and apply the definitions of "branch campus" and "additional location" in 34 CFR 600.2;

(2) On the Secretary's request, conform its designations of an institution's branch campuses and additional locations with the Secretary's if it learns its designations diverge; and

(3) Ensure that it does not accredit or preaccredit an institution comprising fewer than all of the programs, branch campuses, and locations of an institution as certified for title IV participation by the Secretary, except

with notice to and permission from the Secretary.

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■ 20. Amend § 602.25 by revising the section to read as follows:

602.25 Due process.

The agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process. The agency meets this requirement if the agency does the following:

(a) Provides adequate written specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.

(b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency's requests for information and documents.

(c) Provides written specification of any deficiencies identified at the institution or program examined.

(d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, and before any adverse action is taken.

(e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that—

(i) May not include current members of the agency's decision-making body that took the initial adverse action; and

(ii) Is subject to a conflict of interest policy.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

(g) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.

(h)(1) The agency must provide for a process, in accordance with written procedures, through which an institution or program may, before the agency reaches a final adverse action decision, seek review of new financial information if all of the following conditions are met:

(i) The financial information was unavailable to the institution or program until after the decision subject to appeal was made.

(ii) The financial information is significant and bears materially on the financial deficiencies identified by the agency. The criteria of significance and materiality are determined by the agency.

(iii) The only remaining deficiency cited by the agency in support of a final adverse action decision is the institution's or program's failure to meet an agency standard pertaining to finances.

(2) An institution or program may seek the review of new financial information described in paragraph (h)(1) of this section only once and any determination by the agency made with respect to that review does not provide a basis for an appeal.

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■ 21. Amend § 602.26 by revising the section to read as follows:

§ 602.26 Notification of accrediting decisions.

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures—

(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation to an institution or program.

(2) A decision to renew an institution's or program's accreditation or preaccreditation;

(b) Provides the decision letter or clear explanation in writing of the reasons for a final decision of a probation or equivalent status or an initiated adverse action to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision and requires the institution or program to disclose such an action within seven business days of receipt to all current and prospective students;

(c) Provides the decision letter or clear explanation in writing of the following types of decisions to the

Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

(1) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program.

(2) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (c)(1) of this section;

(d) For the decisions listed in paragraphs (b) and (c) of this section, the agency must update its website directory of accredited institutions or programs to note the decision within one business day of its notice to the institution or program;

(e) For any decision listed in paragraph (c) of this section, requires the institution or program to disclose the decision to current and prospective students within seven business days of receipt and makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, the agency's decision letter or clear explanation of the reasons for the agency's decision and the official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment;

(f) The agency must maintain on its website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years, including in the agency's decision letter required pursuant to subparagraphs (b), (c), and (e) above.

(g) Notifies the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and, upon request, the public if an accredited or preaccredited institution or program—

(1) Decides to withdraw voluntarily from accreditation or preaccreditation, within 10 business days of receiving notification from the institution or program that it is withdrawing voluntarily from accreditation or preaccreditation; or

(2) Lets its accreditation or preaccreditation lapse, within 10 business days of the date on which accreditation or preaccreditation lapses.

(h) If the agency issues a final decision to withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of the institution, and

the institution challenges this final decision, the Department may continue to provide access to title IV, HEA programs to an institution until both arbitration and judicial review (if applicable) has concluded or until relief is denied, whichever occurs first, if failure to do so would result in immediate, irreparable harm to the institution. This provision does not authorize the Department to nullify agency decisions that are made in a manner consistent with the agency's standards, even if the Department disagrees with said decision.

* * * * *

- 22. Amend § 602.27 by revising paragraph (a)(1) to read as follows:

§ 602.27 Other information an agency must provide Department.

(a) The agency must submit to the Department—

(1) Regular and timely updates, occurring throughout the year, of its accredited and preaccredited institutions and programs on the Department's website directory;

* * * * *

- 23. Amend § 602.28 by revising paragraph (d) to read as follows:

§ 602.28 Regard for decisions of States and other accrediting agencies.

* * * * *

(d) If the agency learns that an institution it accredits or preaccredits, an institution that offers a program it accredits or preaccredits, or a program it accredits or preaccredits, is the subject of an adverse action or has been placed on probation or an equivalent status by another recognized agency, or has been the subject of a similar action or status by a State agency or Federal agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or an equivalent status.

* * * * *

- 24. Redesignate § 602.31 to § 602.30 and amend the section to read as follows:

§ 602.30 Agency applications and reports to be submitted to the Department.

(a) *Applications for recognition or renewal of recognition.* An accrediting agency seeking initial or continued recognition must submit a written application to the Secretary. Each accrediting agency must submit an application for continued recognition at least once every five years, or within a shorter time period specified in the final

recognition decision. The application must consist of—

(1) A statement of the agency's requested scope of recognition;

(2) Documentation that the agency complies with the criteria for recognition listed in subpart B of this part, including a copy of its policies and procedures manual and its accreditation standards; and

(3) Documentation of how an agency that includes or seeks to include distance education or correspondence courses in its scope of recognition applies its standards in evaluating programs and institutions it accredits that offer distance education or correspondence courses.

(b) *Applications for expansions or contractions of scope.* An agency seeking an expansion or contraction of scope by application must submit a written application to the Secretary. The application must—

(1) Specify the scope requested;

(2) Provide copies of any relevant standards, policies, or procedures developed and applied by the agency for its use in accrediting activities conducted within an expansion of scope proposed and documentation of the application of these standards, policies, or procedures; and

(3) Provide the materials required by § 602.32(a).

(c) *Compliance or monitoring reports.* If an agency is required to submit a compliance or monitoring report, it must do so within 30 days following the end of the period for achieving compliance as specified in the decision of the senior Department official or Secretary, as applicable.

(d) *Review following an increase in headcount enrollment.* If an agency that has notified the Secretary in writing of its change in scope to include distance education or correspondence courses in accordance with § 602.27(a)(4) reports an increase in headcount enrollment in accordance with § 602.19(e) for an institution it accredits, or if the Department notifies the agency of such an increase at one of the agency's accredited institutions, the agency must, within 45 days of reporting the increase or receiving notice of the increase from the Department, as applicable, submit a report explaining—

(1) How the agency evaluates the capacity of the institutions or programs it accredits to accommodate significant growth in enrollment and to maintain education quality;

(2) The specific circumstances regarding the growth at the institution or program that triggered the review and the results of any evaluation conducted by the agency; and

(3) Any other information that the agency deems appropriate to demonstrate the effective application of the criteria for recognition or that the Department may require.

(e) *Consent to sharing of information.* By submitting an application for recognition, the agency authorizes Department staff throughout the application process and during any period of recognition—

(1) To observe its site visits to one or more of the institutions or programs it accredits or preaccredits, on an announced or unannounced basis;

(2) To visit locations where agency activities such as training, review and evaluation panel meetings, and decision meetings take place, on an announced or unannounced basis;

(3) To obtain copies of all documents the staff deems necessary to complete its review of the agency; and

(4) To gain access to agency records, personnel, and facilities.

(f) *Public availability of agency records obtained by the Department.*

(1) The Secretary's processing and decision-making on requests for public disclosure of agency materials reviewed under this part are governed by the Freedom of Information Act, 5 U.S.C. 552; the Trade Secrets Act, 18 U.S.C. 1905; the Privacy Act of 1974, as amended, 5 U.S.C. 552a; 5 U.S.C. Chapter 10 (Federal Advisory Committees); and all other applicable laws. In recognition proceedings, agencies must, before submission to the Department—

(i) Redact the names and any other personally identifiable information about individual students and any other individuals who are not agents of the agency or of an institution or program the agency is reviewing;

(ii) Redact the personal addresses, personal telephone numbers, personal email addresses, Social Security numbers, and any other personally identifiable information regarding individuals who are acting as agents of the agency or of an institution or program under review;

(iii) Designate, but not redact, all business information within agency submissions that the agency believes would be exempt from disclosure under exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4). A blanket designation of all information contained within a submission, or of a category of documents, as meeting this exemption will not be considered a good faith effort and will be disregarded; and

(iv) Ensure documents submitted are only those required for Department

review or as requested by Department officials.

(2) The agency may identify any other material the agency believes would be exempt from public disclosure under FOIA, the factual basis for the request, and any legal basis the agency has identified for withholding the document from public disclosure.

(3) The Secretary processes FOIA requests in accordance with 34 CFR part 5 and makes all documents provided to the Advisory Committee available to the public.

(4) Upon request by Department staff, the agency must disclose to Department staff any specific material the agency has redacted that Department staff believes is needed to conduct the staff review. Department staff will make any arrangements needed to ensure that the materials are not made public if prohibited by law.

(g) *Length of submissions.* The Secretary may publish reasonable, uniform limits on the length of submissions described in this section.

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■ 25. Redesignate § 602.32 to § 602.31 and amend the section to read as follows:

§ 602.31 Procedures for submitting applications for recognition and renewal of recognition.

(a) An agency must submit an application for initial or renewal of recognition and meet the submission deadline set by the Department. The type of application that must be submitted and the scope and priority of the Department's review are determined by the Department as follows:

(1) If the total title IV, HEA program funds received by the institutions accredited by an accrediting agency constitute a substantial portion, as determined by the Secretary, of the total funds awarded for the title IV, HEA programs, the agency must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part.

(2) If an institutional accrediting agency is not identified for review under paragraph (a)(1) of this section, the agency must submit an application that addresses the agency's compliance with §§ 602.15, 602.16, 602.17, 602.19, and 602.20 and any other criteria as directed by Department staff. The agency must also attest that since its last comprehensive review the agency's policies and practices have remained in compliance with all criteria in subpart B of this part not addressed in its application.

(3) If an agency or its officers or directors have been the subject of legal

actions, complaints, or other compliance issues that individually or in the aggregate raise substantial concerns regarding the agency's compliance with this part, the agency must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part.

(4) If an agency is exclusively a programmatic accrediting agency and is not identified for review under paragraph (a)(3) of this section, the agency must submit an application that addresses the agency's compliance with the criteria in §§ 602.10, 602.16, 602.17, 602.19, and 602.20 and any other criteria as directed by Department staff. The agency must also attest that since its last comprehensive review the agency's policies and practices have remained in compliance with all criteria in subpart B of this part not addressed in its application.

(5) An agency described in paragraphs (a)(2) or (a)(4) of this section must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part at least once every third cycle of review.

(6) The Department may also consider factors that include but are not limited to—

(i) Whether any of its accredited institutions closed without an approved teach-out agreement in place when such an agreement was required in accordance with § 602.24(c);

(ii) Whether the Department has received serious or a high proportion of complaints about the institutions or programs the agency accredits;

(iii) Whether the agency has significantly increased the number of institutions or programs it accredits; and

(iv) The number and severity of noncompliant findings identified in the senior Department official's or Secretary's decision letter for the agency's application for renewal of recognition.

(b) (1) After receipt of an agency's application for initial or renewal of recognition, Department staff publishes a notice in the **Federal Register** stating that the agency submitted an application and inviting the public to provide information concerning the performance of the agency to assist the Department in determining whether the agency meets the criteria for recognition and establishing a deadline for receipt of information from the public.

(2) Within 10 business days after publication of the notice described in subparagraph (1), the agency must publish the request for information on the agency's website to include instructions on how the public can

submit information in response to the request.

(c) The Department staff analyzes the agency's application for initial or renewal of recognition, to determine whether the agency satisfies the criteria for recognition, taking into account all available relevant information concerning the compliance of the agency with those criteria and the agency's consistency in applying the criteria. The analysis of an application will include—

(1) A site visit, which may be conducted as an in-person visit at the agency, including an on-site file review of agency documents, or through a virtual file review of agency documents. The site visit may also include, as appropriate, an in-person visit to the agency's member institutions or programs, an on-site or virtual observation of a meeting of the agency's decision-making body, or an on-site or virtual observation of other agency activity. During the site visit, Department staff may retain copies of documents needed for inclusion in the administrative record;

(2) Review of the public information Department staff receives by the established deadline, the agency's responses to the third-party information, as appropriate, and any other information Department staff obtains for purposes of evaluating the agency under this part; and

(3) Review of complaints or legal actions involving the agency; and

(4) Review of complaints or legal actions against an institution or program accredited or preaccredited by the agency, which may be considered but are not necessarily determinative of compliance.

(d) The Department may view as a negative factor when considering an application for initial recognition as proposed by an agency anticompetitive conduct that is violative of the antitrust laws, such as collusion between accrediting agencies and any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization to unnecessarily inflate the qualifications necessary for a student to sit for a licensure or certification examination or otherwise be eligible for entry into a profession, occupation, or vocation due to an increase in related education or training requirements.

(e) Department staff's evaluation of an agency may also include a review of information directly related to institutions or programs accredited or preaccredited by the agency relative to

their compliance with the agency's standards, the effectiveness of the standards, and the agency's application of those standards, but must make all materials relied upon in the evaluation available to the agency for review and comment.

(f) If, at any point in its evaluation of an agency seeking initial recognition, Department staff determines that the agency fails to demonstrate compliance with the basic eligibility requirements in §§ 602.10 through 602.15, the staff—

(1) Returns the agency's application and provides the agency with an explanation of the deficiencies that caused staff to take that action; and

(2) Requires that the agency withdraw its application and instructs the agency that it may reapply when the agency is able to demonstrate compliance.

(g) Except with respect to an application that has been returned and is withdrawn under paragraph (f) of this section, when Department staff completes its evaluation of the agency, the staff will—

(1) Within 120 days of the submission deadline set by the Department, prepare a written draft analysis of the agency's application;

(2) Send to the agency the draft analysis including any identified areas of potential noncompliance and all third-party information and complaints, if applicable, and any other materials the Department received by the established deadline or is including in its review;

(3) Invite the agency to provide a written response to the draft analysis and third-party comments or other material included in the review, specifying a deadline that provides at least 90 days for the agency's response;

(4) Review the response to the draft analysis the agency submits, if any, and prepares the written final analysis—

(i) Indicating that the agency is in full compliance, substantial compliance, or noncompliance with each of the criteria for recognition; and

(ii) Recommending that the senior Department official approve, continue recognition with a compliance report-to be submitted to the Department within 12 months, continue recognition with a compliance report to be submitted to the Department with a deadline in excess of 12 months based on a finding of good cause and extraordinary circumstances, approve with monitoring or other reporting requirements, or deny, limit, suspend, or terminate recognition; and

(5) Provide to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and any other available

information provided to the Advisory Committee under § 602.34(c).

(h) The agency may request that the Advisory Committee defer acting on an application at that Advisory Committee meeting if Department staff fails to provide the agency with the materials described, and within the timeframes provided, in paragraphs (g)(3) and (5) of this section. If the Department staff's failure to send the materials in accordance with the timeframe described in paragraph (g)(3) or (5) of this section is due to the agency's failure to timely submit reports or other information requested by the Secretary, submit its response to the draft analysis, or to comply with the requirements of § 602.30(e), the Department will not grant the agency any requests to defer consideration of its application.

(i) If Department staff does not conclude its review of the application for recognition before the expiration of an agency's recognition period, the recognition period automatically extends for a period of time that expires when a recognition decision is made and Department staff will limit the length of the recognition recommendation to not exceed five years from the expiration.

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■ 26. Amend § 602.32 by revising the section to read as follows:

§ 602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increase in headcount enrollment.

(a) For an expansion or contraction of scope—

(1) The Department will only accept such applications in conjunction with an application for recognition, except as provided in paragraph (a)(2) of this section; and

(2) At the discretion of Department staff and on a case-by-case basis, Department staff may review an application for an expansion or contraction of scope independent of a renewal application.

(3) The Department may view as a negative factor, when considering an expansion or contraction of scope as proposed by an agency, anticompetitive conduct that is violative of the antitrust laws, such as collusion between accrediting agencies and any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization to unnecessarily inflate the qualifications necessary for a student to sit for a licensure or certification examination or otherwise be eligible for entry into a

profession, occupation, or vocation due to an increase in related education or training requirements.

(b) For the review of a compliance report, Department staff—

(1) Completes its evaluation of the agency's compliance report;

(2) Within 90 days of the submission deadline set by the SDO or Secretary decision letter for the compliance report, prepares a written draft analysis of the agency's compliance report;

(3) Sends to the agency the draft analysis, including any identified areas of potential noncompliance and any other materials the Department received by the established deadline or that is included in its review;

(4) Invites the agency to provide a written response to the draft analysis and other material included in the review, specifying a deadline that provides at least 45 days for the agency's response;

(5) Reviews any response to the draft analysis the agency submits and prepares the written final analysis—

(i) Indicating that the agency is in full compliance, substantial compliance, or noncompliance with each of the criteria for recognition under review; and

(ii) Including a recognition recommendation to the senior Department official, including, but not limited to, a recommendation that the senior Department official approve, continue recognition with compliance reporting requirements based on a finding of good cause and extraordinary circumstances, approve with monitoring or other reporting requirements, or deny, limit, suspend, or terminate recognition; and

(6) Provides to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and any other available information provided to the Advisory Committee under § 602.34(c).

(c) For the review of a report related to an increase in headcount enrollment, the agency will provide the report required by § 602.30(d); and the Department will process the report in accordance with the procedures described in paragraph (b) of this section for a compliance report.

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■ 27. Amend § 602.33 by revising the section to read as follows:

602.33 Procedures for review of agencies during the period of recognition, including the review of monitoring reports.

(a) Department staff may review the compliance of a recognized agency with the criteria for recognition at any time—

(1) Based on the submission of a monitoring report as directed by a

decision by the senior Department official or Secretary; or

(2) Based on any information that, as determined by Department staff, appears credible and raises concerns relevant to the criteria for recognition.

(b) The review may include, but need not be limited to, any of the activities described in § 602.31(c) and (e).

(c) If the inquiry was initiated under paragraph (a)(2) of this section, Department staff will provide the agency with documentation concerning the inquiry and an opportunity to respond within a reasonable time.

(d) If, in the course of the review, Department staff determines that the agency is in compliance with the criteria for recognition, the Department will conclude the review and notify the agency.

(e) If, in the course of the review, Department staff notes that one or more deficiencies may exist in the agency's compliance with the criteria for recognition or in the agency's effective application of those criteria, Department staff—

(1) Prepares a written draft analysis of the agency's compliance with the criteria of concern;

(2) Sends to the agency the draft analysis including any identified areas of noncompliance and all supporting documentation not previously provided;

(3) Invites the agency to provide a written response to the draft analysis within 45 days; and

(4) Reviews any response provided by the agency, and either—

(i) Determines the agency is in compliance with the criteria and concludes the review;

(ii) Continues monitoring of the agency's areas of deficiencies; or

(iii) (A) Notifies the agency, in the event that the agency's response or monitoring report does not satisfy the staff, that the draft analysis will be finalized for presentation to the Advisory Committee;

(B) Finalizes the staff analysis as necessary to reflect its review of any agency response and any public comment received;

(C) Provides to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and a recognition recommendation and any other information provided to the Advisory Committee under § 602.34(c); and

(D) Submits the matter for review by the Advisory Committee in accordance with § 602.34.

* * * * *

■ 28. Amend § 602.34 by revising the section to read as follows:

§ 602.34 Advisory Committee meetings.

(a) Department staff submits a proposed schedule to the Chairperson of the Advisory Committee based on anticipated completion of staff analyses.

(b) The Chairperson of the Advisory Committee establishes an agenda for the next meeting and, in accordance with the Federal Advisory Committee Act, presents it to the Designated Federal Official for approval.

(c) Before the Advisory Committee meeting, Department staff provides the Advisory Committee with—

(1) As applicable, the agency's application for recognition, renewal of recognition, or the agency's application for expansion or contraction of scope when Advisory Committee review is required, or the agency's compliance report, and supporting documentation submitted by the agency;

(2) The final Department staff analysis of the agency developed in accordance with §§ 602.31, 602.32, or 602.33, and any supporting documentation;

(3) The agency's response to the draft analysis;

(4) Any written third-party information the Department received about the agency on or before the established deadline;

(5) Any agency response to third-party information; and

(6) Any other information Department staff relied upon in developing its analysis.

(d)(1) At least 30 days before the Advisory Committee meeting, the Department publishes a notice of the meeting in the **Federal Register** inviting interested parties to make oral presentations before the Advisory Committee.

(2) Within 10 business days after publication of the notice described in subparagraph (1), the agency must publish the meeting notice on the agency's website to include instructions on how the public can participate.

(e) The Advisory Committee considers the materials provided under paragraph (c) of this section in a public meeting and invites Department staff, the agency, and other interested parties to make oral presentations during the meeting. A transcript is made of all Advisory Committee meetings.

(f) The written motion adopted by the Advisory Committee regarding each agency's recognition will be made available during the Advisory Committee meeting. The Department will provide each agency, upon request, with a copy of the motion on recognition at the meeting. Each agency that was reviewed will be sent an electronic copy of the motion relative to

that agency as soon as practicable after the meeting.

(g) After each meeting of the Advisory Committee, the Advisory Committee forwards to the senior Department official its recommendation with respect to each agency, which may include, but is not limited to—

(1)(i) For an agency that is fully compliant, approve initial or renewed recognition;

(ii) In the case of non-compliance—

(A) Continue recognition with a required compliance report to be submitted to the Department within 12 months from the decision of the senior Department official;

(B) In conjunction with a finding of exceptional circumstances and good cause, continue recognition for a specified period in excess of 12 months pending submission of a compliance report; or

(C) Deny, limit, suspend, or terminate recognition.

(iii) In the case of substantial compliance, grant initial recognition or renewed recognition and recommend a monitoring report with a set deadline to be reviewed by Department staff to ensure that corrective action is taken, and full compliance is achieved or maintained (or recommend for action by staff under § 602.33 if it is not); or

(iv) Grant or deny a request for expansion or contraction of scope; or

(v) Revise or affirm the scope of the agency.

* * * * *

■ 29. Amend § 602.35 by revising paragraphs (a) and (c)(2) to read as follows:

§ 602.35 Responding to the Advisory Committee's recommendation.

(a) Within 10 business days following the publication of transcripts of the Advisory Committee meeting, the agency and Department staff may submit written comments to the senior Department official on the Advisory Committee's recommendation. The agency must simultaneously submit a copy of its written comments, if any, to Department staff. Department staff must simultaneously submit a copy of its written comments, if any, to the agency.

* * *

(c) * * *

(2) Within 10 business days of receipt by the Department staff of an agency's comments or new evidence, if applicable, or of receipt by the agency of the Department staff's comments, Department staff, the agency, or both, as applicable, may submit a response to the senior Department official. Simultaneously with submission, the agency must provide a copy of any

response to the Department staff. Simultaneously with submission, Department staff must provide a copy of any response to the agency. No additional comments or new documentation may be submitted after the responses described in this paragraph are submitted.

* * * * *

■ 30. Amend § 602.36 by revising paragraphs (a),(b),(e),(h), and (i) to read as follows:

§ 602.36 Senior Department official's decision.

(a) The senior Department official makes a decision regarding recognition of an agency based on the record compiled under §§ 602.31, 602.32, 602.33, 602.34, and 602.35 including, as applicable, the following:

(1) The materials provided to the Advisory Committee under § 602.34(c).

(2) The transcript of the Advisory Committee meeting.

(3) The recommendation of the Advisory Committee.

(4) Written comments and responses submitted under § 602.35.

(5) New documentation submitted in accordance with § 602.35(c)(1).

(6) A communication from the Secretary referring an issue to the senior Department official's consideration under § 602.37(e).

(b) In the event that statutory authority or appropriations for the Advisory Committee ends, or there are fewer duly appointed Advisory Committee members than needed to constitute a quorum, and under extraordinary circumstances when there are serious concerns about an agency's compliance with subpart B of this part that require prompt attention, the senior Department official may make a decision on an application for renewal of recognition or compliance report on the record compiled under § 602.31 or § 602.32 after providing the agency with an opportunity to respond to the final staff analysis. Any decision made by the senior Department official under this paragraph from the Advisory Committee may be appealed to the Secretary as provided in § 602.37.

* * *

(e) The senior Department official's decision may include, but is not limited to, approving for recognition; approving with a monitoring report; denying, limiting, suspending, or terminating recognition following the procedures in paragraph (g) of this section; granting or denying an application for an expansion of scope; granting or denying an application for a contraction of scope; revising or affirming the scope of the agency; or continuing recognition

pending submission and review of a compliance report under §§ 602.32 and 602.34 and review of the report by the senior Department official under this section.

(1)

(i) The senior Department official approves recognition if the agency has demonstrated compliance or substantial compliance with the criteria for recognition listed in subpart B of this part. The senior Department official may determine that the agency has demonstrated compliance or substantial compliance with the criteria for recognition if the agency has a compliant policy or procedure in place but has not had the opportunity to apply such policy or procedure.

(ii) If the senior Department official approves recognition, the recognition decision defines the scope of recognition and the recognition period. The recognition period does not exceed five years, including any time during which recognition was continued to permit submission and review of a compliance report.

(iii) If the scope of recognition is less than that requested by the agency, the senior Department official explains the reasons for continuing or approving a lesser scope.

(2)

(i) Except as provided in paragraph (e)(3) of this section, if the agency fails to comply with the criteria for recognition listed in subpart B of this part, the senior Department official denies, limits, suspends, or terminates recognition.

(ii) If the senior Department official denies, limits, suspends, or terminates recognition, the senior Department official specifies the reasons for this decision, including all criteria the agency fails to meet and all criteria the agency has failed to apply effectively.

(3)

(i) If the senior Department official concludes an agency is noncompliant, the senior Department official may continue the agency's recognition, pending submission of a compliance report that will be subject to review in the recognition process, provided that—

(A) The senior Department official concludes that the agency will demonstrate compliance with, and effective application of, the criteria for recognition within 12 months from the date of the senior Department official's decision; or

(B) The senior Department official identifies a deadline more than 12 months from the date of the decision by which the senior Department official concludes the agency will demonstrate

full compliance with, and effective application of, the criteria for recognition, and also identifies exceptional circumstances and good cause for allowing the agency more than 12 months to achieve compliance and effective application.

(ii) In the case of a compliance report ordered under paragraph (e)(3)(i) of this section, the senior Department official specifies the criteria the compliance report must address, and the time period for achieving compliance and effective application of the criteria. The compliance report documenting compliance and effective application of criteria is due not later than 30 days after the end of the period specified in the senior Department official's decision.

(iii) If the record includes a compliance report required under paragraph (e)(3)(i) of this section, and the senior Department official determines that an agency has not complied with the criteria for recognition, or has not effectively applied those criteria, during the time period specified by the senior Department official in accordance with paragraph (e)(3)(i) of this section, the senior Department official denies, limits, suspends, or terminates recognition, except, in extraordinary circumstances, upon a showing of good cause for an extension of time as determined by the senior Department official and detailed in the senior Department official's decision. If the senior Department official determines good cause for an extension has been shown, the senior Department official specifies the length of the extension and what the agency must do during it to merit a renewal of recognition.

* * * * *

(h) If relevant and material information pertaining to an agency's compliance with recognition criteria, but not contained in the record, comes to the senior Department official's attention while a decision regarding the agency's recognition is pending before the senior Department official, and if the senior Department official concludes the recognition decision should not be made without consideration of the information, the senior Department official either—

(1)

(i) Does not make a decision regarding recognition of the agency; and

(ii) Refers the matter to Department staff for review and analysis under §§ 602.31, 602.32, or 602.33, as appropriate, and consideration by the Advisory Committee under § 602.34; or

(2)

(i) Provides the information to the agency and Department staff;

(ii) Permits the agency to respond to the senior Department official and the Department staff in writing, and to include additional documentation relevant to the issue, and specifies a deadline;

(iii) Provides Department staff with an opportunity to respond in writing to the agency's submission under paragraph (h)(2)(ii) of this section, specifying a deadline; and

(iv) Issues a recognition decision based on the record described in paragraph (a) of this section, as supplemented by the information provided under this paragraph (h).

(i) No agency may submit information to the senior Department official, or ask others to submit information on its behalf, for purposes of invoking paragraph (h) of this section. Before invoking paragraph (h) of this section, the senior Department official will take into account whether the information, if submitted by a third party, could have been submitted in accordance with §§ 602.31, 602.32, or 602.33.

* * * * *

■ 31. Amend § 602.37 by revising paragraphs (g) and (h) to read as follows:

§ 602.37 Appealing the senior Department official's decision to the Secretary.

* * *

(g) If relevant and material information pertaining to an agency's compliance with recognition criteria, but not contained in the record, comes to the Secretary's attention while a decision regarding the agency's recognition is pending before the Secretary, and if the Secretary concludes the recognition decision should not be made without consideration of the information, the Secretary either—

(1) (i) Does not make a decision regarding recognition of the agency; and

(ii) Refers the matter to Department staff for review and analysis under §§ 602.31, 602.32, or 602.33, as appropriate; review by the Advisory Committee under § 602.34; and consideration by the senior Department official under § 602.36; or

(2) (i) Provides the information to the agency and the senior Department official;

(ii) Permits the agency to respond to the Secretary and the senior Department official in writing, and to include additional documentation relevant to the issue, and specifies a deadline;

(iii) Provides the senior Department official with an opportunity to respond in writing to the agency's submission

under paragraph (g)(2)(ii) of this section, specifying a deadline; and

(iv) Issues a recognition decision based on all the materials described in paragraphs (e) and (g) of this section.

(h) No agency may submit information to the Secretary, or ask others to submit information on its behalf, for purposes of invoking paragraph (g) of this section. Before invoking paragraph (g) of this section, the Secretary will take into account whether the information, if submitted by a third party, could have been submitted in accordance with §§ 602.31, 602.32, or 602.33.

* * * * *

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 32. The general authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001–1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, 1099c–1, and 1231a, unless otherwise noted.

■ 33. Amend § 668.43 by revising paragraph (a)(11) to read as follows:

§ 668.43 Reporting and disclosure of information.

(a) * * *

(11) A description of the transfer of credit policies established by the institution, which must include a statement of the institution's current transfer of credit policies that includes, at a minimum—

(i) The timeline by which a transcript must be submitted for timely review so that a prospective student can make an informed decision prior to making a nonrefundable financial commitment, enrollment, or registration;

(ii) Any established criteria the institution uses regarding the transfer of credit earned at another institution and any types of institutions or sources from which the institution will not accept credits;

(iii) A list of institutions with which the institution has established an articulation agreement; and

(iv) Written criteria used to evaluate and award credit for prior learning experience including, but not limited to, service in the armed forces, paid or unpaid employment, or other demonstrated competency or learning; and

(v) A statement regarding whether the institution considers credit earned in a non-degree program, or hours completed in a non-credit program, for transfer or articulation to a degree program;

* * * * *

(c)

(1) If the institution has made a determination under paragraph (a)(5)(v) of this section that the program's curriculum does not meet the State educational requirements for licensure or certification in the State in which a prospective student is located, or if the institution has not made a determination regarding whether the program's curriculum meets the State educational requirements for licensure or certification, the institution must provide notice to that effect to the student prior to the student's enrollment in the institution in accordance with § 668.14(b)(32).

(2) If the institution makes a determination under paragraph (a)(5)(v) of this section that a program's curriculum does not meet the State educational requirements for licensure or certification in a State in which a student who is currently enrolled in such program is located, the institution must provide notice to that effect to the student within 14 calendar days of making such determination.

(3) If a student timely provides a transcript to an institution during the period described in paragraph (a)(11)(i) of this section, the institution must—

(i) Inform the student of the credit that will be awarded for courses on that transcript;

(ii) Inform the student of the credit that the institution declines to award for courses on that transcript; and

(iii) Disclose the estimated time and, when applicable, courses that would be needed to replace the courses for which the institution declined to award credit under paragraph (ii).

(4) If the institution declines to award credit to a student pursuant to its transfer of credit policy under 34 CFR 602.24(e)(4), the institution must provide to the student a written rationale specific to each course that does not result in transfer credit.

(5)(i) Disclosures under paragraphs (c)(1)–(4) of this section must be made directly to the student in writing, which may include through email or other electronic communication.

(ii) Disclosures under paragraph (c)(3) of this section must be provided to the student by the earlier of the date that the student—

(A) Signs an enrollment agreement;

(B) Completes registration; or

(C) Makes a nonrefundable financial commitment to the institution.

(iii)

(A) For purposes of paragraphs (c)(1) and (c)(2) of this section, an institution must make a determination regarding the State in which a student is located in accordance with the institution's

policies or procedures, which must be applied consistently to all students.

(B) The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location under paragraph (c)(5)(iii)(A) of this section, including the basis for such determination.

(C) An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an

educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures under paragraph (c)(5)(iii)(A) of this section, that the student's location has changed to another State.

* * * * *

(d)

* * * * *

(3) *Distribution to prospective students.* The institution must provide

the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a nonrefundable financial commitment to the institution.

* * * * *

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Part III

Department of Labor

Employment and Training Administration

20 CFR Part 652

Wagner-Peyser Act Employment Service Staffing; Final Rule

DEPARTMENT OF LABOR**Employment and Training
Administration****20 CFR Part 652****[Docket ETA–2025–0005]****RIN 1205–AC22****Wagner-Peyser Act Employment
Service Staffing****AGENCY:** Employment and Training
Administration, Labor.**ACTION:** Final rule.

SUMMARY: The U.S. Department of Labor (DOL or the Department) is removing the requirement that States use State merit staff to provide Wagner-Peyser Employment Service (ES) services. This final rule allows States to use the staffing model that provides the required services with the most efficient and cost-effective model for their State.

DATES: This final rule is effective on October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Kimberly Vitelli, Administrator, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room C–4526, Washington, DC 20210, Email: vitelli.kimberly@dol.gov.

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I. Acronyms and Abbreviations

2020 Final Rule *Wagner-Peyser Act Staffing Flexibility; Final Rule*, 85 FR 592 (Jan. 6, 2020)

2023 Final Rule *Wagner-Peyser Act Staffing; Final Rule*, 88 FR 82658 (Nov. 24, 2023)

the Act *Wagner-Peyser Act of 1933*

AI artificial intelligence

AJC(s) American Job Center(s) (also known as one-stop(s) or one-stop center(s))

APA Administrative Procedure Act

ARS Agricultural Recruitment System

BLS U.S. Bureau of Labor Statistics

CARES Act Coronavirus Aid, Relief, and Economic Security Act

CFR Code of Federal Regulations

CHIP Children's Health Insurance Program

Complaint System Employment Service and Employment-Related Law Complaint System

COVID–19 coronavirus disease 2019

CSRA Civil Service Reform Act of 1978

DOL or the Department U.S. Department of Labor

DVOP Disabled Veterans' Outreach Program

ED U.S. Department of Education

E.O. Executive Order

ES Wagner-Peyser Act Employment Service

ETA Employment and Training Administration

FR **Federal Register**

FTE(s) Full-Time Equivalent(s)

IPA Intergovernmental Personnel Act of 1970

IT information technology

LVER Local Veterans' Employment Representative

MiDAS Michigan Integrated Data Automated System

MSFW(s) migrant and seasonal farmworker(s)

NAICS North American Industry Classification System

NFJP National Farmworker Jobs Program

NPRM or proposed rule notice of proposed rulemaking

OIRA Office of Information and Regulatory Affairs

OMB Office of Management and Budget

OPM Office of Personnel Management

PRA Paperwork Reduction Act of 1995

Pub. L. Public Law

RESEA Reemployment Services and Eligibility Assessment

RFA Regulatory Flexibility Act

RMA(s) Regional Monitor Advocate(s)

Secretary Secretary of Labor

SMA(s) State Monitor Advocate(s)

SNAP Supplemental Nutrition Assistance Program

SOC Standard Occupational Classification

SSA Social Security Act

Stat. United States Statutes at Large

SWA(s) State Workforce Agency/ies

TAA Trade Adjustment Assistance

UI Unemployment Insurance

UMRA Unfunded Mandates Reform Act of 1995

Uniform Guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

U.S.C. United States Code

WIA Workforce Investment Act

WIOA Workforce Innovation and Opportunity Act

II. Background

The Wagner-Peyser Act of 1933, 29 U.S.C. 49 *et seq.*, established the ES program, which is a nationwide program of labor exchange services. The ES program seeks to improve the functioning of the Nation's labor markets by matching job seekers with employers that are seeking workers. Section 3(a) of the Wagner-Peyser Act directs the Secretary of Labor (Secretary) to assist States in coordinating the State public service employment offices throughout the country by developing and prescribing minimum standards of efficiency and promoting uniformity in the operation of the system of public employment offices. The Department has historically relied on the Secretary's authority in secs. 3(a) and 5(b) to require States to provide labor exchange services with State "merit staff," meaning government employees hired and managed under a merit-based personnel system described in title 5 of the Code of Federal Regulations (CFR) at part 900, subpart F.

Beginning in the early 1990s, the Department provided Colorado and Massachusetts with limited flexibility to set their own staffing requirements for the provision of ES services. The flexibility permitted Colorado to use county and State merit staff to deliver ES services. Colorado devolved responsibility for ES activity to the counties through workforce development boards. In Massachusetts, the Department approved use of non-State-merit staff in four of the State's 16 local areas. In 1998, the Department permitted Michigan to use State and local merit staff to deliver ES services, pursuant to a settlement agreement arising out of *Michigan v. Herman*, 81 F. Supp. 2d 840 (W.D. Mich. 1998).

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), Public Law 113–128, to modernize the Nation's workforce development system. Like the Workforce Investment Act (WIA) before it, WIOA did not include an ES merit-staffing requirement. Regulations implementing WIOA were published in the **Federal Register** on August 19, 2016

(81 FR 56072) and were effective on October 18, 2016. Among the provisions codified in the 2016 WIOA regulations was § 652.215, which continued to require the use of State merit-staffing for the delivery of ES services, except for the three States for which the Department previously granted exemptions: Colorado, Massachusetts, and Michigan.

Through rulemaking effective on February 5, 2020, the Department removed the requirement that ES services be provided only by State merit staff (*Wagner-Peyser Act Staffing Flexibility; Final Rule*, 85 FR 592 (Jan. 6, 2020)), hereafter referred to as the 2020 Final Rule. In the preamble to the 2020 Final Rule, the Department explained that it sought to allow States maximum flexibility in staffing arrangements to allow them to better align WIOA and ES staffing. Following the 2020 Final Rule, the Department approved several States to use a variety of staffing models to provide their ES services, as described in their approved WIOA State plans.

In 2023, the Department again changed the requirements in § 652.215 through notice-and-comment rulemaking to reinstate the requirement that States use State merit staff to deliver ES services and reinstated the exemptions for Massachusetts, Michigan, and Colorado. These regulations were published in the **Federal Register** on November 24, 2023 (*Wagner-Peyser Act Staffing; Final Rule*, 88 FR 82658) (the 2023 Final Rule) and became effective on January 23, 2024. The Department also provided 24 months for States to comply with the State merit-staffing requirements in § 652.215. This meant that States would have to comply with the provisions in § 652.215 by January 22, 2026.

On July 1, 2025, the Department published a notice of proposed rulemaking (NPRM or proposed rule) proposing the removal of the State merit-staffing requirement. The NPRM proposed removing the entirety of § 652.215, including the compliance date. The Department invited the public to comment on the proposal and provided a 60-day comment period that ended on September 2, 2025.

Through a final rule published on January 21, 2026, the Department extended the compliance date for States to comply with the State merit-staffing requirements in § 652.215 to January 21, 2027.

III. Discussion on Statutory Basis for Merit-Staffing Requirement

The Department is removing the requirement that ES services must be

delivered by State merit staff and reestablishing the flexibility permitted under the 2020 Final Rule, because the best reading of the Wagner-Peyser Act is that there is no statutory basis for the Department to require States to deliver ES services using only State merit staff, as the Department articulated in the NPRM. Section 3(a) of the Wagner-Peyser Act, which the Department historically relied on to impose the State merit-staffing requirement, requires the Department to assist in coordinating State ES offices in developing and prescribing “minimum standards of efficiency” in the provision of ES programs but notably does not explicitly require the use of State merit staff. While the Department has previously suggested that sec. 5(b) also supports a State merit-staffing requirement, that section does not impose such a requirement, but rather simply requires the Department to make certifications to the U.S. Department of the Treasury regarding the coordination of ES and Unemployment Insurance (UI), only the latter of which expressly requires merit-staffing for certain activities under 42 U.S.C. 503.

The Department also previously relied on the Intergovernmental Personnel Act (IPA), 42 U.S.C. 4728, as amended, which listed the Wagner-Peyser Act as one of the two acts administered by the Department with a requirement to provide services through merit-staffing. The Office of Personnel Management (OPM) regulations implementing the IPA likewise list the Wagner-Peyser Act as having a statutory requirement for merit-staffing, citing sec. 5(b) of the Wagner-Peyser Act, 29 U.S.C. 49d(b). See 5 CFR part 900, subpart F, Appendix A. However, sec. 5(b) does not impose any statutory requirement for merit-staffing ES services. Rather, as noted earlier in this section, it merely requires the Secretary to certify that States are complying with sec. 303(a)(1) of the Social Security Act (SSA), 42 U.S.C. 503(a)(1) (which requires the use of merit staff by States in administering their UI programs) and that States are coordinating ES activities with the provision of UI claimant services.

The IPA and its implementing regulations apply when a federally funded program requires state or local agencies to establish a merit personnel system in order to receive funds. The Department notes that in March 2025, OPM issued updated IPA guidance stating that the IPA does not prescribe any particular staffing method to meet the merit personnel requirement. See *Certifying the Use of a Merit Personnel System as Required by the Intergovernmental Personnel Act of*

1970, 90 FR 11659 (Mar. 11, 2025).

Under the updated IPA guidance, state and local agencies have discretion to determine the most appropriate staffing method for their merit personnel system, absent any statutory or regulatory requirement for a specific staffing method. Importantly though, there is no indication that Congress, in including the Wagner-Peyser Act in sec. 208 of the IPA, intended to impose a merit-staffing requirement not found in the Act itself, or implied to amend the Act itself to include such a requirement. Rather, as the Department noted in the NPRM, this appears to reflect the existing merit system functions being carried out by the Department at that time. Neither the IPA nor the OPM regulations contain an independent legal requirement for merit-staffing in the ES. Even if the IPA could be interpreted to suggest that Congress recognized a merit-staffing requirement in the Wagner-Peyser Act, the plain language of the statute is clear that no such requirement existed at the time the IPA was passed, apart from the Department’s regulation requiring merit-staffing. If a statutory requirement had existed, Congress would not have needed to add a provision requiring merit staff in annual appropriations acts, as it did every year from 1946 to 1963 (see former 29 U.S.C. 49n). Additionally, the question of Congress’ intent in enacting the IPA, and the Department’s authority to impose a merit-staffing requirement via regulation more generally, was considered by the court in *Michigan v. Herman*, 81 F. Supp. 2d 840 (W.D. Mich. 1998). After reviewing the text and legislative history of the Wagner-Peyser Act and the IPA, the court concluded that the Wagner-Peyser Act “does not explicitly require merit-staffing.” *Id.* at 847–48. The Department acknowledges that while the court concluded that the Act does not explicitly require merit-staffing, the court also concluded that the Department, citing *Chevron, U.S.A. v. National Resources Defense Council*, 467 U.S. 837 (1984), had discretion to require merit-staffing because the language in sec. 3(a) was “broad enough to permit the [Secretary] to require merit staffing” *Id.* The district court reasoned that “[w]hile there is ample basis for a conflicting interpretation of the Wagner-Peyser Act’s requirements, given the deference owed to the agency charged with administering the Act, the Court can find no compelling indications that the [Department’s] construction of the statute is wrong.” *Herman*, 81 F. Supp. 2d at 848.

But the framework under which the district court reached its decision is no longer legally defensible. In 2024, the U.S. Supreme Court decided *Loper Bright Enterprises v. Raimondo* (603 U.S. 369 (2024)), which overruled *Chevron*. Recognizing that for all statutes there is a single, best reading, the Court in *Loper Bright* held that under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, courts must exercise independent judgment to determine if an agency has acted within its statutory authority and may not defer to the agency's interpretation simply because a statute is ambiguous. The Court recognized that the best reading of a statute may in fact be that Congress delegated discretionary authority to an agency. But ambiguities alone are not necessarily delegations. *Id.* at 404. And even when the best reading of the statute is that it delegates discretionary authority to an agency, reviewing courts must still independently interpret the statute and effectuate Congress' intent subject to constitutional limits by policing the boundaries of that delegation. *Id.* at 395, 404. Under *Loper Bright*, courts are to "interpret statutes, no matter the context, based on the traditional tools of statutory construction, not individual policy preferences." *Id.* at 403. In light of the *Loper Bright* decision, the Department has reassessed the State merit-staffing requirement in the ES program and has determined that the State merit-staffing requirement does not comport with the best reading of the statute.

Contrasting the Wagner-Peyser Act with sec. 303(a)(1) of the SSA, which Congress enacted almost contemporaneously with the Wagner-Peyser Act and which explicitly requires merit-staffing, supports this reading of the Wagner-Peyser Act. The Wagner-Peyser Act was enacted in 1933. The Department consistently applied a merit-staffing requirement beginning in 1934. The SSA was enacted in 1935, with a later 1939 amendment adding an explicit merit-staffing requirement in sec. 303(a)(1) of the SSA. Congress clearly knew how to legislate a merit-staffing requirement. That neither sec. 3(a) nor sec. 5(b) of the Wagner-Peyser Act contains an explicit merit-staffing requirement supports the Department's reading of the Wagner-Peyser Act. The Department acknowledged as much when arguing in *Herman* that the Department had authority to require State merit-staffing. 81 F. Supp. 2d at 844 (W.D. Mich. 1998) ("[The Department] acknowledges that the Wagner-Peyser Act does not explicitly

impose or authorize a merit staffing requirement.").

As noted earlier in this section, the IPA does not provide independent authority to require merit-staffing. Based on the contemporaneous histories of the Wagner-Peyser Act and the SSA, with the latter containing an explicit merit-staffing requirement absent in the former, and *Loper Bright*'s directive that there can only be one single best reading of a statute, the Department has determined that the single best reading of the Wagner-Peyser Act is that it does not provide statutory authority for the Department to require merit-staffing for the delivery of Wagner-Peyser Act ES services.

Accordingly, the Department is removing the State merit-staffing requirement, consistent with the directives in Executive Order (E.O.) 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative," dated February 19, 2025; the Presidential Memorandum titled "Directing the Repeal of Unlawful Regulations," dated April 9, 2025; and Office of Management and Budget (OMB) Memorandum M-25-28, "Guidance Implementing the President's Memorandum Directing the Repeal of Unlawful Regulations," dated May 7, 2025.

The Department is eliminating the State merit-staffing requirement by removing § 652.215 from the Wagner-Peyser Act regulations. In addition to the merit-staffing requirement in paragraph (a), § 652.215 includes an exception for Colorado, Massachusetts, and Michigan to continue to use staffing flexibilities in paragraph (b), a requirement for these three States to participate in an evaluation concerning their delivery of ES services in paragraph (c), and a date by which all States must comply with the requirements of the section in paragraph (d). Without a State merit-staffing requirement in paragraph (a), the remaining paragraphs are no longer necessary. As such, the Department is removing all paragraphs of § 652.215 from the CFR.

As a result of this rulemaking, States are able to use whichever lawful staffing method they choose. Even assuming, notwithstanding the text of the Wagner-Peyser Act and the SSA, that Congress delegated to the Department discretion to require merit-staffing, this rulemaking would be a valid exercise of that discretion. The Department is removing regulatory requirements that are unduly burdensome and that relate to the employment of personnel only at the State level. The Department concludes

that a uniform Federal staffing mandate is not necessary to achieve the Act's objectives of providing minimum standards of efficiency.

The Department further concludes that States should retain flexibility to determine the staffing structures best suited to their labor markets, workforce systems, and administrative arrangements. This conclusion is informed by the Department's own experience administering the Wagner-Peyser Act. For decades, the Department permitted Colorado, Massachusetts, and Michigan to operate under alternative staffing arrangements. During that time, the Department continued to oversee these States' compliance with the Wagner-Peyser Act and its implementing regulations while allowing them flexibility to deliver Employment Service activities through staffing models other than exclusive State merit staffing. The Department's experience with these States demonstrates that alternative staffing can achieve effective administration of Employment Service programs and minimum standards of efficiency.

Regardless of staffing model, States remain responsible for compliance with all applicable statutory and regulatory requirements. States must continue to provide all required Employment Service activities and remain accountable for performance outcomes. The Department retains oversight authority to ensure compliance with applicable performance standards regardless of the staffing model selected by a State.

The Department has considered comments asserting that State merit staffing promotes professionalism, neutrality, accountability, continuity of operations, and service quality. However, the Department concludes that those objectives can be achieved through alternative staffing models and do not require a uniform Federal mandate. The Department's longstanding experience with alternative staffing arrangements in Colorado, Massachusetts, and Michigan demonstrates that States can satisfy Federal program requirements while using different personnel structures. Accordingly, even if the Department possessed discretion to maintain the merit-staffing requirement, it would determine that removal of the requirement is the preferable policy choice because it affords States greater flexibility while preserving accountability for program performance and compliance with Federal law.

While the Department provides oversight of the program, under the Act and regulations, States are responsible

for administering ES funds and for providing all required program services through ES-funded staff. 29 U.S.C. 49f; 20 CFR 652.3, 652.203. Any regulatory burden imposed on States, including on States' administration of their own personnel, must be no more than is necessary to achieve program objectives. *See, e.g.*, E.O. 12866, "Regulatory Planning and Review" (prioritizing minimization of regulatory burden on entities such as States and avoidance of undue interference with State governments in the exercise of their governmental functions); E.O. 13132, "Federalism" ("With respect to Federal statutes and regulations administered by the States, the national government shall grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable."). The flexibility provided in this rule, which advances the goal of affording States maximum discretion, will allow States to deliver ES services efficiently with limited resources, using State merit staff, other State staff, subawards to local governments or private entities, a combination of these arrangements, or other staffing arrangements allowable under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 CFR part 200. This flexibility promotes not only State innovation, but also greater alignment and integration with the services delivered through WIOA title I programs. The Department notes that staffing arrangements other than State-employee staffing would properly be considered subawards and the entities providing services under these arrangements would properly be considered subrecipients. These subawards and subrecipients would be subject to the requirements in the at 2 CFR part 200. Regardless of the staffing method employed, States still must provide services required under the Wagner-Peyser Act. These services include job search and placement assistance for job seekers, recruitment services and special technical services for employers, reemployment services for UI claimants, labor exchange services for workers who have received notice of permanent or impending layoff, referrals and financial aid application assistance for training and educational resources and programs, and the development and provision of labor market and occupational information. These services help the labor market to function more efficiently

by matching employers with available workers.

The Department further notes that this rulemaking is narrowly tailored to address only the State merit-staffing requirement in § 652.215 and does not impact other changes made by the Department in parts 651, 652, 653, and 658 in the 2023 Final Rule. The recruitment and staffing requirements described at §§ 653.107, 653.108, and 653.111, which relate to migrant and seasonal farmworker (MSFW) outreach staff, State Monitor Advocates (SMA), and significant MSFW one-stop centers, are not changed by this final rule. For instance, the SMA must continue to be a State Workforce Agency (SWA) official and a senior-level ES staff employee, who reports directly to the State Administrator or their designee, as permitted by § 653.108(c)(2), and must be protected against retaliation for performing their work, as described at § 653.108(a).

IV. Notice of Proposed Rulemaking

On July 1, 2025, the Department published an NPRM in the **Federal Register** proposing the removal of the State merit-staffing requirement. The NPRM proposed removing the entirety of § 652.215, including the compliance date. The Department invited the public to comment on the proposal and provided a 60-day comment period that ended on September 2, 2025. Comments received before 11:59:59 p.m. E.D.T. on September 2, 2025, were considered to be submitted on time, as were emails with time stamps prior to the close of the comment period and letters with a postmark or courier acceptance date on or before September 2, 2025.

During the public comment period, 456 comments were received. The Department read every comment received before the end of the comment period, and considered every substantive comment. Comments came from a wide range of stakeholders, from State government employees and unions to workforce development boards and elected officials. The Department identified eight separate form letter campaigns, and the majority of submissions, 303, appeared to result from these letter writing campaigns. The Department identified 62 comments that were unique and substantive. These comments responded to specific subjects within the proposed changes to the regulations; the Department discusses the comments by topic in the sections that follow.

V. Discussion of Public Comments

A. Comments Regarding the Department's Statutory Authority To Require State Merit-Staffing for ES Service Delivery

Commenters disagreed about the Department's statutory authority to require State merit-staffing for ES service delivery. A State government agency, a professional association, and an anonymous commenter expressed support for the Department's conclusion that it lacks the legal authority to require merit-staffing for ES services. In particular, these commenters agreed with the Department's interpretation that the authorization to set "minimum standards of efficiency" under sec. 3(a) of the Wagner-Peyser Act does not provide a statutory basis for requiring the use of State merit staff to deliver ES services. A State government agency and a professional association asserted that the correct interpretation of the Wagner-Peyser Act is to allow States to design staffing models to achieve the best outcomes, with the professional association further stating that this flexibility would allow the best use of Wagner-Peyser funding. An anonymous commenter reasoned that the proposed rule was consistent with administrative law in light of *Loper Bright* and would reduce litigation risk.

Conversely, other commenters, including several unions and a Federal elected official, generally stated that the legislative history and statutory framework of the Wagner-Peyser Act, along with what they described as the inherently governmental nature of ES functions, reflect Congress' clear intent to preserve a professional, merit-based public workforce as a foundation of the ES system. A union argued against removing the merit-staffing requirement, including in the three States that the Department previously granted "alternative staffing demonstration waivers" (Colorado, Massachusetts, and Michigan), stating that the proposed rule would dismantle a longstanding, legally grounded requirement and instead permit private entities to receive Wagner-Peyser Act funds. A union stated that the Department's decision to remove the merit-staffing requirement was arbitrary and capricious.

A union remarked that multiple presidential administrations—both Democratic and Republican—have recognized the statutory requirement for merit-based staffing under the Wagner-Peyser Act. A few individual commenters and form letter campaigns elaborated that Congress has historically intervened to block privatization attempts, recognizing the essential role

of public accountability in employment services. One such individual commenter, a form letter campaign, and comments from unions cited a 2006 example in which the Bush administration proposed privatizing employment services and Congress blocked the effort through the appropriations process, prohibiting DOL from finalizing the proposed rules, which were later withdrawn by the Obama administration. One of the unions remarked that such congressional efforts affirm the notion of “a statutory requirement for the establishment and maintenance of personnel standards on a merit basis” in Wagner-Peyser Act-funded programs. Similarly, a union and a think tank asserted that DOL’s proposed rule represents a “fundamental departure” from the Wagner-Peyser Act’s statutory framework and legislative history, both of which, they argued, affirm Congress’ intent to ensure that ES programs are carried out by a professional, merit-based public workforce. A union remarked that the 1939 amendments to the SSA further cemented a State merit system by requiring unemployment compensation payment be delivered through public employment offices and by establishing Federal merit-staffing standards for UI programs.

The Department agrees that Congress designed the Wagner-Peyser Act to establish a national system of public employment offices. However, the Department disagrees that all of the ES functions are inherently governmental and that any of the legislative history laid out by the commenters trumps the plain language of the statute to support the contention that the Department has authority to require State merit-staffing for the delivery of ES services. The Department acknowledges that this position is a departure from the Department’s longstanding practice from roughly 1934 to 2020. As explained earlier in this preamble, the Wagner-Peyser Act does not explicitly require that ES services be delivered exclusively by merit-based State employees. Several commenters raised the connection to the SSA, which Congress enacted almost contemporaneously with the Wagner-Peyser Act. Notably, the SSA, in sec. 303(a)(1), contains an explicit merit-staffing requirement. The Wagner-Peyser Act does not. Accordingly, the Department has concluded that, because the Wagner-Peyser Act contains neither an explicit merit-staffing requirement nor an express delegation to the Secretary to decide whether to require one, the Department lacks authority to

impose such. The Department determines, consistent with E.O. 14219, that this approach is the single best reading of the statutory framework and judicial interpretations of the Wagner-Peyser Act. It also aligns with the broader goals of WIOA, which emphasize integrated service delivery and State-level innovation.

Multiple commenters, including a farmworker advocacy organization, unions, a think tank, and form letter campaigns, expressed opposition to the Department’s conclusion that it lacks the legal authority to require merit-staffing for ES services. A few commenters, including a union, an advocacy organization, and a think tank, stated that the Department’s authority under sec. 3(a) of the Wagner-Peyser Act to prescribe minimum standards of efficiency, together with the Wagner-Peyser Act’s establishment of a national system of public employment services offices, has long been understood to permit the Department to require State merit-staffing. According to these commenters, the NPRM’s shift away from that interpretation lacks a legal rationale and would conflict with a settled statutory and regulatory framework.

Multiple commenters provided examples of Federal actions on merit-staffing to support their opposition to the Departmental conclusion that it lacks authority for the merit requirement. Several commenters, including a union, a think tank, and an advocacy organization, asserted that Congress has reaffirmed ES merit-staffing through related statutes and decades of implementation, with the union and the think tank describing repeated Congressional actions dating back to the 1930s, and an individual commenter stating that the Department “omits 80 years of ES legislative, appropriation, and administrative history in its explanation.” Two unions, a think tank, an advocacy organization, and an individual commenter argued that the Department previously withheld certification from States that lacked merit personnel systems and used that leverage to ensure public merit-based ES staffing. Two unions wrote that in 2000 the Department turned down requests for waivers of the merit-staffing requirement when it issued the WIA implementing regulations. A union and an advocacy organization described appropriations provisions from the mid-2000s that blocked prior efforts to relax or rescind merit-staffing as further Congressional reinforcement of merit system requirements.

A union and an individual commenter reasoned that WIOA amended rather than replaced the Wagner-Peyser Act and did not authorize non-merit-staffing with Wagner-Peyser funds, reasoning that Department’s longstanding position treats merit-staffing as legally required rather than discretionary.

Several unions and individual commenters pointed to language in sec. 3(a) that requires the Secretary to promote uniformity in administrative procedure in the ES program as authority for a State merit-staffing requirement. Disagreeing with the Department’s reasoning in the proposed rule that sec. 5(b) of the Wagner-Peyser Act does not create a State merit-staffing requirement but instead only requires certifying coordination between ES and UI programs, an individual commenter reasoned that the Department has instead relied on sec. 5(b) of the Wagner-Peyser Act to preserve merit-staffing protections and ensure impartial delivery of ES and UI services in accordance with statutory intent. A union wrote that the alignment of ES and UI demonstrates that ES functions are inherently governmental and therefore must be delivered by public, merit-based State employees, asserting that this long-standing integration supports the Department’s authority to require merit-staffing.

A think tank asserted that in light of the text in sec. 3(a) of the Wagner-Peyser Act on standards of efficiency and administrative uniformity, as well as Congress’ identification of the Act in the IPA in transferring merit-staffing functions, the statutory and historical record of Congressional support for merit-staffing is not ambiguous and thus is not subject to *Loper Bright*, concluding that the Department’s position that *Loper Bright* compels revisiting the regulation of merit-staffing in the ES program is inaccurate.

The Department appreciates the detailed perspectives offered by these commenters. However, after careful review of the statutory text, legislative history, and relevant case law, the Department reaffirms its conclusion that it lacks the legal authority to require States to use merit-staffed personnel to deliver ES services under the Wagner-Peyser Act. As noted earlier in this preamble, sec. 3(a) of the Wagner-Peyser Act authorizes the Secretary to establish “minimum standards of efficiency” for State ES operations. The best reading of this delegation is that it authorizes the Department to prescribe performance and operational benchmarks governing the delivery of Employment Service activities. While staffing decisions may

affect the efficiency with which services are delivered, a staffing model is not itself a “standard of efficiency.” A requirement that services be delivered exclusively by State merit staff does not establish a performance or operational benchmark governing the operation of the Employment Service; rather, it dictates the employment status of the individuals providing those services. The Department interprets sec. 3(a) as enabling it to ensure that services are delivered effectively and efficiently to job seekers and employers (e.g., ensuring coordination and nonduplication), but not to dictate the employment status or classification of the individuals providing those services.

Likewise, authority to promote uniformity in administrative procedure under sec. 3(a) does not constitute authority to require State merit-staffing. The Department encourages States to establish policies on service delivery to improve quality and consistency regardless of staffing model. The Department notes that, regardless of how States staff their ES program, they still must provide all of the services the Wagner-Peyser Act requires, and other Wagner-Peyser Act rules found in 20 CFR parts 651, 652, 653, and 658 still ensure uniformity of service. For example, § 652.3 establishes minimum requirements for public labor exchange systems, § 652.207 requires States to provide universal access to the ES, and § 653.101 establishes minimum requirements for the provision of services to MSFWs. Additionally, the ES program is a mandatory one-stop partner program, and the one-stop center certification requirements in the WIOA regulations at 20 CFR 678.800 support consistency across service locations. In addition, States, as Wagner-Peyser Act grantees, still must oversee all operations of the Wagner-Peyser Act, regardless of whether or not they ultimately decide to take advantage of the staffing flexibility provided by this final rule. Consistent with 20 CFR 683.400, the Department will continue to conduct monitoring to ensure States are complying with all of the requirements of the Wagner-Peyser Act, its implementing regulations, and 2 CFR parts 200 and 2900.

The Department acknowledges that it previously interpreted secs. 3(a) and 5(b) to support authority for a merit-staffing requirement. Accordingly, the Department may have previously sought to withhold certification from States to ensure compliance with the merit-staffing requirement. Seeking to withhold certification in those instances does not indicate that the statute in fact

required such staffing. Rather, it demonstrated the Department’s legal analysis at the time that the statute permitted merit-staffing. And therefore the Department sought to set conditions for participation in the ES program through regulation and administrative practice. However, the Department now concludes that the statutory text does not support such a wide grant of Departmental discretion. A more limited interpretation of the Department’s regulatory authority is particularly warranted in light of the *Loper Bright* decision, which instructed courts to “independently identify and respect [constitutional] delegations of authority, police the outer statutory boundaries of those delegations, and ensure that agencies exercise their discretion consistent with the APA.” 603 U.S. at 404. Doing so requires using “all relevant interpretive tools” to determine the “best” reading of a statute; a merely “permissible” reading is not enough. *Id.* at 400.

The absence of an express requirement for merit-staffing in the Wagner-Peyser Act supports the Department’s revised view that the Department does not have authority to require States to use State merit staff to deliver ES services. With this final rule, States will have the flexibility to determine the best staffing model for ES service delivery for their State.

Regarding WIOA, the Department agrees that WIOA amended but did not repeal the Wagner-Peyser Act. However, WIOA also did not codify a merit-staffing requirement. Instead, it emphasized State flexibility. This organizing principle is more evident in the integration of services through American Job Centers (AJCs). The Department finds no indication in WIOA’s text or legislative history that Congress intended to codify a mandatory merit-staffing requirement. Finally, the Department disagrees with the assertion that the statutory and historical record is so unambiguous as to preclude reinterpretation under *Loper Bright*.

Accordingly, while the Department acknowledges the historical context and prior enforcement practices cited by commenters, this final rule reflects a legally sound and statutorily faithful interpretation of the Wagner-Peyser Act.

1. Comments Regarding the Intergovernmental Personnel Act of 1970 and the Civil Service Reform Act of 1978

Several commenters, including an anonymous commenter, a think tank, an advocacy organization, two unions, a farmworker advocacy organization, and

an individual commenter, cited the IPA and its implementing regulations to support their position that the Department has statutory authority to require State merit-staffing, asserting that Congress’ passage of and amendment to the IPA to maintain merit-staffing in the ES represents Congressional ratification of a statutory requirement for merit-staffing in the Wagner-Peyser Act.

The Department disagrees with the commenters’ description of the IPA and its impact on merit-staffing in the ES. Certain Federal grant programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal grant statutes and in other cases are required by regulations of the Federal grantor agencies. Title II of the IPA, as amended, transfers to OPM all “functions, powers, and duties” relating to the prescription of standards for these federally required merit personnel systems, including the functions, powers, and duties of the Secretary of Labor under “the Act of June 6, 1933” (i.e., the Wagner-Peyser Act). 42 U.S.C. 4728(a).

Importantly, however, the IPA and its implementing regulations at 5 CFR part 900, subpart F, do not independently impose a merit-staffing requirement on all federally funded programs. Rather, the IPA and the OPM regulations provide standards for merit systems only when such systems are otherwise required by law or regulation. As noted already, the Wagner-Peyser Act does not contain a merit-staffing requirement. Nor did Congress, by referencing the Wagner-Peyser Act in the IPA, ratify any prior departmental interpretation that the Act authorized a merit-staffing requirement.

To effect ratification of prior agency action, Congress must recognize that the action was unauthorized when taken and must expressly ratify it in clear and unequivocal statutory language. *EEOC v. CBS, Inc.*, 743 F.2d 969, 974 (2d Cir. 1984). Legislative acquiescence, awareness, or accommodation is insufficient. Even statutory provisions that explicitly acknowledge and extend existing agency practices do not ratify the agency’s underlying claim of authority unless they “expressly approved the agency’s interpretation.” *Tiger Lily, LLC v. HUD*, 992 F.3d 518, 524 (6th Cir. 2021) (holding that congressional recognition and temporary extension of an eviction moratorium did not ratify the agency’s

unlawful imposition of the moratorium); *accord Alabama Ass'n of Realtors v. HHS*, 539 F. Supp. 3d 29, 42 (D.D.C. 2021), *aff'd*, 594 U.S. 758 ("To [ratify], however, Congress must make its intention explicit."). The IPA neither amended section 3(a) or 5(b) of the Wagner-Peyser Act nor expressly approved any departmental interpretation of those provisions. At most, it transferred administrative functions that the Department was exercising at the time.

In 1963, the U.S. Department of Health, Education, and Welfare; DOL; and the U.S. Department of Defense jointly issued the predecessor to the current 5 CFR part 900 regulations, prior to the passage of the IPA and its resulting transfer of functions. That predecessor regulation was codified at 45 CFR part 70. In prescribing merit standards under the Wagner-Peyser Act at that time, the regulations at part 70 cited as authority a provision in the Department's yearly congressional appropriation requiring merit-staffing (former 29 U.S.C. 49n). This provision was not repeated in the Department of Labor Appropriations Act, 1965 (Pub. L. 88–605, 78 Stat. 959, 960 (1964)), or in any such act thereafter. Thus, the current OPM regulations, as they relate to the Wagner-Peyser Act, originated not only from a former departmental interpretation of the Wagner-Peyser Act, but also in a long-expired appropriations rider. Notwithstanding DOL's imposition of a merit-staffing requirement at the time of the IPA's enactment, there was no longer any corresponding statutory requirement in the Wagner-Peyser Act.

While Appendix A to OPM's regulations does include the Wagner-Peyser Act as a program that requires merit-staffing by virtue of sec. 5(b), sec. 5(b) contains no such statutory requirement. As explained, the enumeration of the Wagner-Peyser Act among the list of programs requiring merit-staffing largely reflects Department practice at the time OPM took over administration of the merit system functions. Accordingly, the IPA does not support any proposition that the Department has authority to require merit-staffing under the Wagner-Peyser Act.

A union and a think tank reasoned that the enactment of the Civil Service Reform Act of 1978 (CSRA) reinforced the existence of authority for the merit-staffing requirement. A union stated that the CSRA implementing regulations have consistently affirmed the conclusion that the merit system requirement is "a statutory requirement for the establishment and maintenance

of personnel standards on a merit basis" in Wagner-Peyser Act-funded programs. Another union stated that the CSRA modernized Pennsylvania's merit-based hiring system to ensure that all applicants meet uniform qualifications, which has strengthened recruitment and improved performance outcomes within the ES. Lastly, another union said that for over 80 years—until 2020—Federal regulations consistently required a merit-based system for employment in programs funded by the Wagner-Peyser Act. The commenter provided an example that DOL, and later OPM, reflected Congress' intent to uphold merit standards through various legislative updates, including the CSRA and the WIA.

The Department disagrees with the conclusion that the CSRA affirmed the existence of a statutory requirement for merit-staffing in Wagner-Peyser Act-funded programs. The CSRA amended the IPA and modernized the Federal civil service system. It did not, however, impose merit-staffing requirements on State-administered programs. The CSRA maintained the merit protections for programs outlined in the IPA. As noted, inclusion of the Wagner-Peyser Act in the list of programs with a merit-staffing requirement in the IPA originated from the Department's former regulatory posture and a long-expired appropriations rider. Additionally, while the CSRA may have influenced the development of State merit systems, such as in Pennsylvania, it does not extend Federal merit system requirements to State employees unless required by another statute.

The Department acknowledges that from the 1930s until 2020, Department regulations required merit-staffing for ES programs. However, this long-standing regulatory practice does not transform a regulatory requirement into a statutory one.

In the WIA interim final rule preamble, the Department stated that the "regulations reflect[ed] the Department's interpretation of the Wagner-Peyser Act, affirmed in [*Michigan v. Herman*], to require that job finding, placement and reemployment services funded under the Act . . . be delivered by public merit-staff employees." 64 FR 18662, 18691 (Apr. 15, 1999). The Department described its interpretation as that affirmed in *Herman*, in which the court held that the Department could require merit-staffing, but not that it must. And the court's opinion in that case describes the Department's own interpretation of the statute as one giving "discretion to the Secretary" to require merit-staffing. *Herman*, 81 F.

Supp. 2d at 846. In the WIA final rule, the Department did not address whether the Wagner-Peyser Act obligated the Department to impose a merit-staffing requirement for Wagner-Peyser Act-funded services. 65 FR 49294, 49385 (Aug. 11, 2000). Instead, the Department simply noted that the final WIA regulation imposed a merit-staffing requirement reflecting the Department's authority under the Wagner-Peyser Act, as affirmed in *Herman*, to require Wagner-Peyser Act-funded services be provided by merit staff. Thus, in the WIA final rule, the Department did not opine on whether sec. 3(a) mandated the imposition of a merit-staffing requirement for Wagner-Peyser Act funded services.

Finally, in the WIOA NPRM, the Department explained that the Department has maintained the policy of requiring merit-staffing since the earliest years of the ES and that *Herman* upheld this policy. 80 FR 20805 (Apr. 16, 2015). The Department explained that it would continue this policy from WIA to WIOA. Notably, the WIOA NPRM did not suggest that there was a statutory requirement in the Wagner-Peyser Act for merit staff. The preambles in the WIA and WIOA rulemakings demonstrate that since the decision in *Herman*, the Department has not interpreted the Wagner-Peyser Act to include an explicit statutory requirement that Wagner-Peyser Act services be delivered by State merit staff. Instead, the Department has previously interpreted this provision to give it the discretion to impose a merit-staffing requirement. The Department now determines that the best reading of the statute is that it does not authorize the Department to require merit-staffing.

2. Comments Regarding *Michigan v. Herman*

Some commenters, including unions and a form letter campaign, cited *Michigan v. Herman* to support the argument that the Department has authority to require State merit-staffing. A form letter campaign, a union, and an advocacy organization argued that *Herman* upholds the Department's previous position that requiring merit-staffing is reasonable, within statutory authority, and supported by *Herman*'s discretion to require merit-staffing under the Wagner-Peyser Act's structure and standards-setting authority. The form letter campaign reasoned that the NPRM misread *Herman* when it emphasized the absence of an express command for merit-staffing. An individual commenter stated that DOL's proposal would disregard this precedent and failed to justify its reasoning with

facts. An individual commenter stated that a court has already upheld requiring merit-staffing in the ES program and stated that “revisiting this and re-litigating this issue is [a] waste of government resources.”

As noted in the previous section, in *Herman*, the court did conclude that the Department had discretion to require State merit-staffing for ES service delivery. As explained earlier in this preamble, this district court made its decision under a framework used by reviewing courts that is no longer supportable. When the court decided *Herman*, courts were free to defer to “permissible” agency interpretation of ambiguous statutes. Under the *Loper Bright* standard articulated by the Supreme Court in 2024, reviewing courts must now decide the single best interpretation of a statute. Courts may continue to use traditional interpretive tools in arriving at the single best interpretation. The Department has determined that based on the almost contemporaneous enactment of sec. 303(a)(1) of the SSA that contains an explicit merit-staffing requirement and the absence of such a requirement in the Wagner-Peyser Act, suggests that the best reading of the Wagner-Peyser Act is that it does not provide the Department authority to require State merit-staffing.

The Department notes that the legal and regulatory framework governing ES staffing has evolved over time, including changes made through rulemaking in 2020 and subsequent reconsideration in later years. Revisiting this issue through notice-and-comment rulemaking is not a wasted effort, but rather a necessary exercise of the Department’s regulatory authority under the APA to respond to the *Loper Bright* decision. While the Department acknowledges the resource commitment associated with this rulemaking, it remains committed to the principles of public input and policy refinement that underscore the APA. The Department remains committed to ensuring that staffing models support efficient and high-quality service delivery, and that any changes are made transparently and in accordance with statutory and regulatory obligations.

B. General Opposition to the Proposed Rule

Multiple anonymous commenters and individual commenters opposed the proposed removal of the merit-staffing requirement without providing detailed rationale or supporting data. Arguments provided by commenters against the proposed removal of the merit-staffing requirement included contentions that the proposed change would negatively

impact individuals who depend on the services provided by merit staff, potentially harming too many people. Commenters also asserted that the merit-staffing requirement functions adequately and resources should be focused on issues that need to be addressed and that merit-staff workers deserve protection.

The Department acknowledges the comments about changes in services as a result of the rule, but notes that commenters did not provide any data to support these assertions. Regarding statements about the perceived positive effects of merit-staffing, States can make a determination to maintain merit-staffing. However, as described previously there is no statutory requirement to do so. The Department lacks the statutory authority to require States to use State merit staff to deliver ES services. Section 3(a) of the Wagner-Peyser Act authorizes the Secretary to establish “minimum standards of efficiency,” but does not expressly or implicitly authorize the Department to require the use of State merit staff. The Department interprets this provision as allowing it to set performance and operational standards that promote effective service delivery, while leaving States with the discretion to determine how best to meet those standards within their unique administrative and labor market contexts. The Department’s primary interest is the effective functioning of the workforce system and allowing States to use the same staff to provide WIOA and ES services will allow for more seamless service delivery where States deem it appropriate for their contexts. States may set operational standards to promote seamless and effective service delivery. Furthermore, in light of the Supreme Court’s *Loper Bright* decision, the Department has carefully reviewed its statutory authority and concluded that a State merit-staffing requirement would exceed the scope of its authority under the Wagner-Peyser Act.

Numerous commenters, including multiple form letter campaigns, a union, and an advocacy organization, urged the Department to withdraw the proposal and maintain the merit-staffing requirement. A few of the commenters reasoned that the merit-staffing requirement is needed to preserve the integrity of the Wagner-Peyser program. One of the form letter campaigns remarked that the merit-staffing requirement has helped keep the ES fair, professional, and effective since its creation in 1933. Many commenters, including a few unions, several form letter campaigns, and multiple individual commenters, warned that

removing the merit-staffing requirement could promote the same kind of fraud, corruption, political influence, and bias in private employment service offices that led to passage of the Wagner-Peyser Act.

The Department acknowledges concern about the proposed removal of the merit-staffing requirement for ES. While the Department acknowledges the role that merit staff have played in the history of the ES, the Department determines that the concerns raised overstate the risks associated with allowing States greater flexibility in staffing models.

First, the NPRM did not propose elimination of Federal oversight or core ES program requirements. States will still be subject to 20 CFR part 683, subpart D—Oversight and Resolution of Findings. Consistent with 20 CFR 683.400, the Department will continue to monitor States to ensure they are delivering ES services in compliance with all of the requirements of the Wagner-Peyser Act, its implementing regulations, the Uniform Guidance at 2 CFR part 200, and the Department’s exceptions to the Uniform Guidance at 2 CFR part 2900. The Department will hold States responsible for violations of the ES implementing regulations, the statute, and the Uniform Guidance. States still must meet the universal access requirements in § 652.207, comply with the non-discrimination requirements in WIOA sec. 188, adhere to program and performance accountability mechanisms, follow State and Federal procurement requirements, and disclose conflicts of interest. The Department will continue to monitor compliance and ensure that services are delivered fairly and effectively, regardless of the staffing model States adopt.

Second, the Department believes that professionalism and integrity are not exclusive to merit-based hiring systems. States would retain the ability to implement rigorous hiring, training, and oversight practices to ensure staff are well-equipped to serve job seekers and employers as WIOA assigns a clear role to State boards in supporting the professional development of workforce staff across all programs. Specifically, under WIOA sec. 101(d)(3)(G), State boards are responsible for “the development and continuous improvement of the workforce development system in the State, including . . . the development of strategies to support staff training and awareness across programs supported under the workforce development system.” This statutory function ensures that States maintain a coordinated

approach to staff development, regardless of the staffing model employed. Further, WIOA sec. 101(d)(7)(C) encourages State Boards to leverage technology to strengthen the professional development of workforce professionals. This includes using digital tools and platforms to enhance training, promote cross-program knowledge, and support continuous learning.

C. General Comments on ES Service Delivery by State Merit Staff Versus Other Models

Many commenters, including multiple individual commenters, form letter campaigns, and a union, described positive outcomes associated with using State merit staff to deliver Wagner-Peyser ES services. For example, several commenters, including a farmworker advocacy organization, form letter campaigns, and a union, wrote that State merit staff are subject to personnel standards and perform their work with integrity, impartiality, and accountability. In line with that point, multiple commenters, including a farmworker advocacy organization, a union, and form letter campaigns, described how State merit staff serve job seekers fairly and equitably, including vulnerable and “hard-to-place” populations.

Numerous commenters, including a union, form letter campaigns, and several individual commenters, discussed how State merit staff bring consistency and stability to their roles. Many commenters, including a farmworker advocacy organization, a union, and form letter campaigns, addressed the training and expertise that State merit staff represent. Specifically, several commenters, including unions, a form letter campaign, and multiple individual commenters, remarked that the uniform training State merit staff receive ensures uniformity in service delivery and expressed appreciation for the institutional knowledge and depth of experience embodied in State merit staff. A form letter campaign, individual commenters, and an anonymous commenter wrote that State merit staff have developed an understanding of their communities and relationships with the employers there that are critical to successful job placement. Commenters emphasized the professionalism, impartiality, and accountability of merit staff, as well as their training, institutional knowledge, and deep community relationships.

The Department received comments that seek to make a case for the contributions of State merit staff in

delivering Wagner-Peyser ES services. The Department finds that other staffing models are capable of providing professional, skilled personnel with strong community relationships. This final rule allows States flexibility in staffing models, including continuing to deliver ES services with State merit staff if a State chooses. The rule does not critique merit staff performance, but rather it recognizes that high-quality service delivery can be achieved through multiple approaches in particular circumstances. The Department believes that the qualities attributed to merit staff in these comments are not exclusive to merit staff.

The Department remains committed to ensuring that all services are delivered in compliance with Federal standards, including nondiscrimination, performance accountability, and priority of service for veterans. The Department will continue to monitor and evaluate service delivery performance and outcomes to ensure that all job seekers receive high-quality ES services.

1. Comments About “Privatization” of the ES Program

Numerous form letter campaigns and individual and anonymous commenters expressed general opposition to “privatization” of Wagner-Peyser ES services. Some of the commenters’ concerns included that privatization would diminish the quality of services and weaken accountability, oversight, and training while not saving money or improving outcomes. Many commenters, including an advocacy organization, several individual commenters, and multiple anonymous commenters, agreed with the Department’s goal of helping States efficiently administer ES services but disagreed that privatization would achieve that goal.

Multiple individual and anonymous commenters and a form letter campaign reasoned that higher rates of turnover in the private sector than in the public sector mean that privatization would increase turnover among ES staff and thus decrease the continuity of service delivery. Several commenters, including a union, a form letter campaign, and a few individual commenters, expressed concern that private entities would not be held to the same transparency standards under which government agencies operate.

A few State government employees, including a form letter campaign, expressed concern that privatization would lower the quality of services. One of the commenters described their experiences working in an office staffed

by both State merit staff and private contractor staff, stating that the contractor practices favoritism with staff and customers, contractor staff are subject to little oversight or accountability, and State merit staff receive heavier workloads. The commenter urged the Department, should it finalize the proposed rule, to include strong oversight and accountability measures that can be enforced to protect public workers and their clients.

An individual commenter remarked on the investment of time that would be needed to train private contractor staff up to “some semblance of the current staff functioning.” Another individual commenter warned that private entities operating under less oversight could end up costing taxpayers more. An anonymous commenter stated that privatization carries risk compared to the status quo because State merit staff must go through a clearance process to be employed by the government.

An individual commenter reasoned that private contractor staff have no incentive to improve services because their pay and benefits are lower than State merit staff, adding that there are no proven, independent studies showing that government services improve when privatized. Another individual commenter argued that non-State-merit staff who live outside the State in which they work would care less about the people they serve.

Many form letter campaigns and individual and anonymous commenters wrote that privatization of public services in Indiana and Texas resulted in negative outcomes, such as payment errors, delays in service delivery, and harm to vulnerable populations. Similarly, an advocacy organization, a few anonymous commenters, and several individual commenters stated that past attempts at privatization were less effective in delivering services than the merit-staffing model. Specifically, some of the anonymous commenters and individual commenters said that those privatization efforts resulted in higher turnover and costs, lower quality and accountability, and erosion of institutional knowledge.

Numerous individual and anonymous commenters and a form letter campaign expressed general opposition to operating public services for profit rather than for the public good. Many commenters, including a union, a form letter campaign, and several individual commenters, expressed concern that a new emphasis on profit would come at the expense of other goals, including quality, ethics, and unbiased service. For example, a form letter campaign, a

union, and an anonymous commenter warned that for-profit providers aiming for volume over fit would harm individuals with barriers to employment, while an individual commenter expressed concern that for-profit providers would “funnel” workers toward unskilled jobs rather than the best positions for them. A different individual commenter cautioned that profit-seeking would result in subpar services for vulnerable populations because of the “need to meet a client quota similar to a sales office.” Likewise, another individual commenter stated from previous experience as a dislocated worker program employee that private contractors prioritize job seekers who will provide the best outcomes quickly because contractors “need the numbers to look good” to get their contracts renewed.

A Federal elected official warned that introducing a profit motive could interfere with the services provided and criticized the proposed rule for its lack of detail about the contracting process (e.g., who will make contracting decisions and how they will avoid a conflict of interest). Using the military and the police as examples, an individual commenter and an anonymous commenter argued that services that exist for the public good should not be privatized because the priorities would then shift from serving the people to maximizing shareholder profits. A few individual commenters objected on the ground that when public services are run for profit, the funding that becomes profit for private entities necessarily takes away from the funding that is available to provide the services to the public. Another individual commenter warned that the profit potential would lead to contractors using unskilled labor or artificial intelligence (AI) to deliver services.

A form letter campaign asserted that eliminating the merit-staffing requirement might result in inconsistent service delivery between States and regions. A State government employee wrote that removing ES staffing would remove the uniform training afforded to merit staff, which would lead to inconsistent quality of service. Similarly, an anonymous commenter cautioned that privatizing services might lead to disparity in service delivery between regions with different profit potential. For example, the commenter said, if less profitable employment offices close, that would harm individuals who live in remote areas without reliable internet service and need to visit a location in person to receive services.

Writing in opposition to removing the merit requirement, a few individual commenters asserted that outsourcing job services to private contractors could harm public trust in the system. An advocacy group expressed concern that contractors might not reliably protect privacy for ES clients. Some individual commenters warned that outsourcing ES job services to private contractors could risk violating labor laws. A form letter campaign, an individual commenter, and an anonymous commenter urged the Department to reject privatization and instead improve the merit-based system from within by investing in training, resources, capacity, and innovation for the public workforce. Writing that the merit-staffing requirement is “politically tenable and morally justifiable,” an individual commenter objected to States being allowed to use ES funding under the Wagner-Peyser Act to hire staff not subject to merit standards.

While the Department received numerous comments mentioning privatization, this final rule does not privatize the ES program. The Department reaffirms that regardless of the staffing model adopted by a State, the State retains full responsibility for ensuring compliance with all applicable laws and regulations. This includes the enforcement of protections afforded under the Wagner-Peyser Act, WIOA, and other Federal statutes governing employment standards. This responsibility includes oversight of any subrecipients, if a State chooses to deliver services through a subrecipient instead of State merit staff; this final rule does not require any State to use contracts. Further, the Department notes that it is not privatization that results in numerical targets for services; the Wagner-Peyser Act as amended by WIOA sets performance metrics for ES. That same law requires the Department to take economic conditions and characteristics of participants into account when measuring the performance of grantees, through the use of statistical adjustment models, contrary to the concerns of commenters that believed contracts in ES would mean disincentives to serve certain areas. The Department notes that many local workforce development boards successfully deliver services through a variety of staffing models, and that States already have procurement requirements and experience in contracting for services, if they opt to use that staffing model. Lastly, whether or not individuals or States prefer one staffing model over another, the Department has determined, as

described throughout the preamble, that the Department does not have the authority to require State merit-staffing.

One SWA commented in support of the rule, while indicating that merit staff would continue to work best to meet their needs. The Department thanks the SWA for its comment. Whether through State merit-staffing, local merit-staffing, State or local staffing outside the merit system, delivering services through local boards or other subrecipients, or any other creative hybrid model, the most important element of the rule is ensuring State solutions that respond to State needs.

The Department disagrees that services provided by non-State merit staff are inherently inferior to those provided by State merit staff. The Department believes that providing flexibility in staffing models may bring a host of advantages, including cost savings and flexibility to replace poor performers. With proper oversight, transparent subaward mechanisms, and quality training, private and non-profit subrecipients can rapidly deploy staff with niche expertise without waiting on civil service hiring cycles or rigid job classifications. These partnerships potentially allow States to scale up during downturns, potentially absorbing surging demand for ES services more smoothly than under the traditional merit staff model. Rather than weakening continuity, a diversified delivery model may serve to hedge against staffing disruptions and leverages performance incentives to drive consistent outcomes. Commenters that cited examples of increased costs or improper payments after privatization largely referenced cash benefit programs—ES does not distribute cash benefits; it offers career services, which are routinely offered by non-merit staff in other programs, including in the Department’s largest workforce grants, WIOA title I. Congress recognized the benefits of contracting for the delivery of career services and training services in title I of WIOA, requiring in WIOA sec. 121(d)(2)(A) that one-stop operators must be selected through a competitive process and in sec. 123(a) that in most instances local boards must award grants or contracts for youth services providers on a competitive basis.

Far from the “lowest bidder” stereotype, performance-based subawards (when so selected by the State) may foster accountability and cost savings. Competitive procurements reward providers that meet or exceed benchmarks (retention rates, placement timelines, credential attainment), while poor performers face penalties or contract loss. This dynamic potentially

keeps per-participant costs in check and redirects funds toward direct service rather than bureaucracy. Many publicly funded programs use procurements for service delivery.

Concerns that contractors will undermine service quality for vulnerable populations overlook the track record of local workforce development boards and specialized providers. Many public and private organizations regularly deliver services to individuals with barriers to employment with comparable employment outcomes to the results of the Employment Service. State merit staff are not the only people trained to deliver tailored services to certain populations. Many organizations invest heavily in staff training regarding compliance with the Americans with Disabilities Act and career pathways for opportunity youth, beneficiaries of public assistance, seniors, veterans, and individuals with disabilities.

Organizations with a mission-driven focus may also yield higher customer satisfaction than one-size-fits-all merit systems. Modern contract models can codify the same rigorous training standards, ethics rules, and nondiscrimination safeguards through clear performance requirements and transparent reporting. As it relates to MSFW services, the Department again notes that the final rule maintains recruitment, training, monitoring, and other service requirements at §§ 653.107, 653.108, and 653.111.

As recipients of Federal Wagner-Peyser ES grants, SWAs must continue to comply with the Uniform Guidance requirements for internal controls. The Uniform Guidance at 2 CFR 200.303 requires recipients to establish, document, and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient or subrecipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Recipients must also evaluate and monitor the recipient's or subrecipient's compliance with statutes, regulations, and the terms and conditions of Federal awards and take prompt action when instances of noncompliance are identified. While some commenters cited instances of contracting, for services other than ES, associated with cost overruns or improper payments, the Department notes that merely administering a program at the State level or with merit staff is no guarantee against improper payments. Therefore, regardless of which staffing model they choose, SWAs will still have to

implement effective internal controls over the ES program so that services remain compliant. Such internal controls may include ensuring that there are policies, procedures, training, and monitoring in place to ensure staff, regardless of their status as State or merit staff, provide high quality services to all customers.

Ultimately, the choice of Wagner-Peyser staffing models remains with States. This final rule does not require privatization. By allowing States to choose delivery partners best suited to local labor markets, whether public, private, or hybrid, States can secure cost efficiencies and quality service. Subgrants to private entities is but one of many viable options, is not inherently inferior to the status quo, and is regularly used to deliver career services in other Federal programs and other DOL-funded programs. This rule simply permits States to develop the staffing model that can expand access, elevate quality, and deliver the services that American workers and employers need. Therefore, the Department elects not to make changes to the regulatory text.

2. Impacts on State Merit Staff

Several individual commenters, a form letter campaign, and an anonymous commenter expressed concern about the economic and personal impacts of privatization on current State merit staff, including for their families and communities. Multiple State government employees expressed satisfaction with their work and concern about their jobs being privatized. A union, an advocacy organization, and a Federal elected official cautioned that the proposed rule could put State merit staff jobs at risk. Another union wrote that allowing States to replace skilled public workers with private contractors "sets a troubling precedent on how the government values public-sector jobs and the public-sector workforce."

An individual commenter and an anonymous commenter argued that privatization of State merit staff jobs is designed to undermine unions and collective bargaining rights. A union stated that the Department disregarded the reliance interests of public employees by removing the State merit-staffing requirement. Describing potential harm to himself and other public servants, a State government employee argued that the proposed rule would impact their careers.

The Department appreciates these concerns and encourages States to consider labor laws when deciding whether to change staffing models. Any staffing model selected should comply

with applicable labor and employment laws that govern the State, and the State may consider the impacts of a change on incumbent employees and potential transition opportunities that exist for any employees who may be impacted.

This final rule does not compel any action by the States, much less the wholesale conversion of merit staff to at-will employees or contractors in every State; it simply permits alternative delivery models where appropriate. The decision rests with the State whether to utilize merit personnel standards or an alternative model. Well-crafted procurements and subawards can serve to protect employee transitions (through redeployment, vacancy prioritization, or other negotiated terms). Further, this final rule does not eliminate or alter any existing State collective bargaining agreement. The Department anticipates that States will appropriately plan any staffing changes, because to do otherwise would disrupt services for which they are held accountable. The Department also weighs the impact of those potential changes to State staff against the importance of effective service delivery, particularly when the Department has determined it does not have the authority to require a specific staffing model. States are capable of making these decisions, and for some States, an analysis of costs and benefits may favor delivery of such services outside of a merit-staffing model.

E. Comments on the Current Regulatory Approach

Critiquing the current regulatory approach to require the use of State merit staff and expressing support for the NPRM, a professional association wrote that the "one-size-fits-all mandate" inhibits States from developing new strategies and delivery models tailored to their labor markets and governance structures.

The Department appreciates the professional association's perspective that the current regulatory requirement for State merit-staffing may limit States' ability to tailor service delivery models to their unique labor markets and governance structures. The Department recognizes that States vary widely in their economic conditions, administrative frameworks, and workforce development priorities, and that flexibility can be a valuable tool for fostering innovation and responsiveness. This final rule will provide States with the discretion to adopt staffing models that best support their service delivery goals, while still requiring adherence to Federal performance standards, civil rights

protections, and program integrity safeguards.

F. Advantages of Staffing Flexibility

1. Ability To Fill Specialized Roles

A local workforce development board asserted that flexibility in staffing would permit customized recruitment, onboarding, and hybrid positions to fit local needs and enable better management of staffing vacancies than leaving State merit-staff positions unfilled or Wagner-Peyser funds unspent. An anonymous commenter similarly described operational benefits of building business services specialized by sector and filling specialized roles working in information technology (IT), data, or multilingual capacities.

The Department appreciates the comments from a local workforce development board and other stakeholders highlighting the potential operational benefits of increased staffing flexibility under the proposed rule. The Department recognizes that local labor markets vary significantly across the country and that workforce needs are increasingly complex and dynamic. The final rule is intended to support States in designing staffing models that are responsive to these realities. By allowing for greater flexibility, States and local areas may be better positioned to recruit staff with specialized skills, fill critical vacancies more efficiently, and align service delivery with regional economic priorities. At the same time, the Department emphasizes that flexibility must be paired with strong oversight, training, and accountability to ensure that all job seekers receive high-quality services. The Department will continue to support States in implementing staffing models that balance innovation with program integrity and performance.

2. Flexibility for Local Goals

A professional association recommended lifting staffing restrictions to allow local workforce boards to partner with employers, community colleges, and economic development agencies to identify regional sector priorities and use local expertise. The commenter further wrote that staffing flexibility allows streamlining of internal services and resources to align with local goals, referencing legislative priorities of a national association of workforce agencies. Similarly, a State government agency wrote that the integrated service delivery model in Texas promotes full and appropriately targeted local staffing that makes more resources available for

effective and innovative service delivery.

The Department appreciates these comments and agrees that staffing flexibility can support innovation, responsiveness, and alignment with local and regional workforce priorities. The Department recognizes that local workforce development boards, in collaboration with State agencies and community partners, are well-positioned to identify and respond to the unique needs of their labor markets. Allowing States discretion in determining staffing models can also free States to provide ES funding to local workforce development areas who can employ ES staff, similar to how workforce development services are devolved and staffed under WIOA title I. Such flexibility to align resources at the local level can facilitate more integrated service delivery, foster partnerships with educational and economic development institutions, and support sector-based strategies that are tailored to local conditions.

The Department also acknowledges that integrated service delivery models, such as those implemented in Texas and other States, can enhance operational efficiency and improve customer outcomes by aligning resources across programs. These models often require flexible staffing approaches that are not easily accommodated under a rigid merit-staffing requirement. By removing the Federal mandate for merit-staffing, the Department aims to empower States and local areas to design service delivery systems that are both efficient and effective, while still meeting the Department's performance and accountability standards.

This approach is consistent with the goals of WIOA, which emphasizes local flexibility, innovation, and the integration of services through AJCs. The Department believes that lifting the merit-staffing requirement will enable States and local areas to align their workforce strategies with economic development goals better and to make more strategic use of Wagner-Peyser funds.

3. Focused Reporting and Accountability

A local workforce development board remarked that State merit staff working under collective bargaining agreements could not be locally managed with performance goals, evaluations, or reporting and accountability processes.

The Department appreciates the comment and agrees that State merit-staffing requirements, particularly when coupled with collective bargaining agreements, can be administratively

complex. These structural challenges are important considerations in workforce system design. The Department believes that States should have the flexibility to address these challenges, and the final rule is intended to provide that flexibility in a way that supports both program integrity and local responsiveness.

4. Local Autonomy for Targeted Regional Response

Multiple commenters, including local workforce development boards, State government agencies, and a professional association, wrote in support of staffing flexibility to allow local and regional autonomy in selecting the most appropriate staffing model. A professional association and a State government agency argued that demonstration States have successfully leveraged flexible staffing models for decades, and the professional association further stated that independent evaluations and State data show these models improve local connections, expand service, and address populations in need while meeting or exceeding Federal performance standards. An individual commenter and an anonymous commenter said that the proposed rule would help modernize the public workforce system. A local workforce development board asserted that regional boards are intentionally designed to operate autonomously to address evolving regional needs and that local boards need the authority to build a workforce responsive to these strategies, adding that local boards are experienced with combining Federal and State funding streams.

A professional association wrote that allowing each workforce region to implement the most suitable staffing model would prepare both job seekers and employers to respond to a changing workforce landscape with new priorities and reduced resources, while an anonymous commenter wrote that staffing flexibility would allow better response to the evolving needs of employers because local boards possess an understanding of the needs of their communities that State governments lack. A professional association commented that its local workforce development boards represent rural, suburban, and urban areas with widely diverse workforce needs and successfully leverage partnerships, such as with community colleges.

A State employee association expressed their support for both the States that intend to implement alternative staffing and those that do not, remarking that their association

members support the principle of State flexibility in ES services. Writing in opposition to the nationwide merit-staffing requirement, a State government agency expressed its intent, regardless of staffing flexibility, to continue delivering Wagner-Peyer services with State merit staff to provide proven results of a professional, impartial, and accountable workforce.

The Department appreciates the many comments submitted in support of increased staffing flexibility in the delivery of ES. These comments came from a broad range of stakeholders. Collectively, the comments offer valuable insights into the potential benefits of allowing States and local areas to determine the staffing models that best meet their unique workforce needs.

The Department agrees that State and regional autonomy is essential for building responsive, effective workforce systems. The Department also acknowledges the comments from demonstration States and their supporters, who pointed to decades of experience using alternative staffing models. Additionally, the Department recognizes the view that staffing flexibility can support modernization of the public workforce system.

Importantly, the Department appreciates the perspective of a State employee association that expressed support for both States that choose to retain merit-staffing and those that pursue alternative models. This balanced view underscores the principle that flexibility enables States to tailor their approaches while upholding the core values of professionalism and accountability.

5. Locally Focused Accountability

A professional association wrote that local accountability can be fostered by business-led boards aligned with employer needs, still subject to oversight from both State and Federal agencies, and held accountable by outcomes, not processes. An individual commenter stated that strong oversight and accountability to Federal performance and civil rights standards could be implemented into local program services by local workforce development boards regardless of the employment classification of the program staff, reasoning that many local boards already do meet those standards.

The Department appreciates the comments submitted in support of local accountability mechanisms for ES. The Department agrees that strong accountability structures are essential to ensuring the integrity and effectiveness of the public workforce system.

Moreover, the Department recognizes that many local boards already demonstrate strong performance and all local boards must comply with Federal standards. The Uniform Guidance and the Department's grant agreements outline clear expectations for subrecipient oversight. The Department's own monitoring also reviews whether services are delivered effectively and in compliance with Federal requirements. These mechanisms remain in place regardless of whether services are delivered by State merit staff or through alternative staffing models.

The Department also acknowledges the view that flexibility in staffing can support ES and other employment and training services modernization and responsiveness. As workforce needs evolve, local boards may be better equipped to adapt service delivery strategies when they have the authority to select staffing models that align with their operational realities and community needs.

6. Improved Integration of Resources

Several anonymous commenters discussed the difficulties of integrating State and local staff under the current merit-staffing requirement. One of the commenters asserted that State and local staff do not integrate well and that the misalignment impedes service efficiency to the detriment of the individuals seeking services. The commenter added that the differing rules and administrative requirements affecting State and local workforce board staff working side by side harms staff morale. The other commenter wrote that the assumption that merit staff are professional and unbiased is not accurate and that merit-staff supervisors are overloaded and often unable to provide a timely response to unprofessional and discriminatory behavior displayed by merit staff. The commenter urged the Department to adopt the proposed rule and put all ES workers in the same chain of command.

Using the pilot staffing model in Michigan as an example, a professional association expressed support for flexible staffing that aligns funding streams and resources to increase efficiency and encourage innovation. A local workforce development board commented that staffing flexibility would maximize the impact of Federal investments. A State government agency remarked that rescinding the merit-staffing requirement would remove an unnecessary administrative burden. A professional association expressed support for the proposed rule, stating that the NPRM would restore much-

needed flexibility for States to determine the best staffing arrangements they need to deliver ES effectively as authorized by the Wagner-Peyser Act.

The Department appreciates these perspectives and recognizes that the integration of State and local staff can present administrative and cultural challenges, particularly when staff operate under different employment classifications and reporting structures. While ES merit-staffing may effectively meet the needs of some States, it may impact the efficiency and cohesion of service delivery teams in others.

The Department also acknowledges the view that placing all ES staff under a unified chain of command could enhance coordination, reduce administrative friction, and improve responsiveness to both clients and staff concerns. These are important considerations as the Department seeks to modernize the public workforce system and ensure that services are delivered efficiently and effectively. Such alignment could also help advance improved integration and coordination of service delivery as envisioned by WIOA within the one-stop delivery system, where seamless access to services across programs is a core goal.

G. Proposed Rule's Impacts on Other Programs

A State employee association remarked that a few States have relied on staffing flexibility for decades and that several other States have expressed interest in exploring alternative staffing strategies. The commenter expressed strong support for providing "maximum flexibility" to States in their provision of ES services, referencing their own published legislative priorities. A professional association wrote in support of the comment submitted by the State employee association, echoing their warning that removing staffing flexibility would disrupt long-standing and cost-efficient delivery models and adding that almost all SWAs support staffing flexibility.

Another professional association described the demonstration model used for ES services in Massachusetts, writing that ES staffing flexibility is allowed in several workforce areas that provide the same quality of ES delivery services as the areas that use a merit-staffing model. The commenter expressed support for the proposed rule and remarked that some regions within the State may choose to maintain the current model of using both State and local staff to deliver services.

The Department acknowledges that some States have successfully operated under alternative staffing models for

decades. These demonstration States have used flexible staffing approaches to integrate services, align funding streams, and respond effectively to local and regional workforce needs.

These comments reinforce the Department's view that flexibility in staffing can support innovation, efficiency, and responsiveness when paired with strong oversight, performance accountability, and adherence to civil rights protections. This final rule is not intended to diminish the value of State merit staff, but rather to empower States to adopt the staffing structures that best support their workforce goals and operational realities.

1. Surge Capacity for Processing UI Claims

Comments from unions, a form letter campaign, and a think tank argued that the merit-staffing model increases surge processing capacity by ensuring a trained and ready workforce that can be deployed into UI positions as needed. A union wrote that a merit-staffed ES has provided impartial and effective UI services during many crises. The form letter campaign cautioned that the privatization of ES services to independent staffing providers not held to the same standards could diminish surge processing capacity, pointing to the surge during the coronavirus disease 2019 (COVID-19) pandemic as an example.

Another union wrote that non-merit workers hired during the pandemic did not receive the training needed for UI administration. Specifically, the commenter referenced an audit of Michigan's ES services during the pandemic finding that insufficient onboarding and offboarding practices led to \$3.8 million in UI fraud, ethics violations, unsafe computer sanitization practices, lack of criminal background checks, and vendor staff retaining system access after they stopped working for the vendor. The commenter further remarked on the history of State ES merit staff providing unbiased, high-quality ES services and UI benefits during times of economic crisis, without political coercion. Similarly, a think tank discussed the benefits of having a prepared pool of State workers, writing that States with cross-trained ES staff were able to use them during the pandemic to provide UI services accurately and with fewer overpayments and that States faced issues with filling UI claims roles and had to move experienced specialists in adjudication and fraud prevention into UI claims roles. The commenter further wrote that some States used private for-profit

contractors to staff UI call centers and that these contractor services were often overbilled, asserting that a private call center may have overbilled Maryland by as much as \$2 million. Providing background for this discussion, the commenter remarked that Federal funding for State UI administration had reached its lowest in decades in 2019.

On the other hand, a few commenters, including professional associations, expressed support for the proposed rule, writing that staffing flexibility would allow administrators to add surge capacity during downturns or disasters. One professional association discussed the adaptability of the pandemic response in Michigan, asserting that their pilot model has integrated funding streams and enhanced efficiency while preserving resources for direct services for job seekers. Relatedly, another professional association discussed the responsiveness of States with flexible staffing models during the pandemic, writing that local workforce areas added processing capacity during surging demand through a variety of collaborations that reallocated staff and integrated technology, including reassigning one-stop center capacity to UI processing. The commenter also described Michigan's rapid reallocation of local staff to UI support during the pandemic and remarked that in Virginia, ES services operated by local workforce development boards achieved performance levels significantly higher than the State agency while also cutting costs.

The Department recognizes that States may want to prepare for UI claims surges. The Department noted such a need in the preambles to its 2022 NPRM and 2023 Final Rule. However, in light of the *Loper Bright* decision that a statute has a single best reading, and the lack of an explicit or implicit grant of authority within the Wagner-Peyser Act to the Department to mandate merit-staffing, this potential need for surge capacity does not provide sufficient basis for the Department to require States to use State merit-staffing for ES service delivery. States can and should prepare for effective surge response, which might include rearranging staff among different functions, as some commenters noted that their States had done, and can also include reform to improve integrity and timeliness. Economic downturns leading to a greater volume of UI claims also are likely to result in an increased need for ES services. Reassigning ES merit staff to help cover UI surges is one option, but the Department has determined that it does not have statutory authority to mandate it. The Department also notes

that there may be needs for surge capacity in other parts of the public workforce system that the ES program is not authorized to assist with, such as needing to retrain workers because of economic changes or a spike in employer demand—work carried out by WIOA title I funded staff at the local level. With the ability to determine their own staffing structure, States can best determine how to plan for and respond to surges of needs in various programs.

2. Alignment With UI Programs

Many commenters, including unions, a Federal elected official, and a professional association, discussed the strong connection and coordination between ES services and UI programs. One national union and one of its district offices each argued for the effectiveness of combining emergency UI benefits with maintaining a trained and politically unbiased ES workforce to deliver employee benefits and services nationwide. The commenters referenced multiple studies, including a 2006 study from the W.E. Upjohn Institute for Employment Research, that they said show that a merit-based ES is cost- and time-effective, resulting in lower total benefit payments and reduced unemployment, and reasoned that allowing privatization of ES staffing would undercut the effective and proven alliance of ES and UI. Another union referenced findings from the same Upjohn Institute research, a 2004 Westat evaluation of labor exchange services, a 1989 Mathematica evaluation report on a New Jersey Unemployment Insurance Reemployment Demonstration Project, and various papers summarizing the same research showing the benefit of the merit-staffing requirement to the UI program as an example of decision making supported by expertise. A Federal elected official warned that ending the merit-staffing requirement might impact the UI system, while an individual commenter wrote that the merit staff in ES programs protect the integrity of State UI programs.

Similarly, multiple unions and an individual commenter stated that the founders of the ES and UI programs considered the merit-staffing requirement an essential element of maintaining an effective policy approach to national employment. The unions further described Congressional intent to prevent favoritism and promote equality in employment services delivery by providing Federal oversight of UI through merit-staffing.

Several commenters, including unions and an advocacy organization, reasoned that the UI work test is “inherently governmental” and should

be performed by government employees. A union discussed the legal history of the Federal-State partnership, arguing that its structure illustrates the intent of the New Deal framers to establish inherently governmental functions requiring State merit-staffing. An individual commenter added that fact gathering and the Reemployment Services and Eligibility Assessment (RESEA) program also create inherently governmental duties.

A few commenters described how merit-staffing improved program delivery and success for UI claimants. A union remarked that research, specifically the 2006 Upjohn Institute article, demonstrates that using State merit staff promotes effective, efficient, and impartial delivery of ES and that multiple studies show that ES produces higher earnings gains, particularly for women. The commenter discussed the 2004 Westat evaluation of labor exchange services, which included the three States using alternative staffing models. The commenter asserted that the study found that traditional ES services produced higher performance and more successful job matching benefits to more UI claimants compared to services provided in the demonstration States.

A think tank, multiple unions, and an advocacy organization stated that research shows the effectiveness of RESEA programs for UI recipients conducted by merit-based Wagner-Peyser staff. The commenters cited a January 2012 study of Nevada's RESEA program by Michaelides et al., which used merit-based State government ES staff, that found that participants were connected to jobs more quickly. The advocacy organization and a union added that the DOL-funded research determined that UI claimants in Nevada were unemployed for shorter periods of time and retained jobs for longer and at higher wages than the control group.

An advocacy organization and a union discussed impacts on the RESEA program and referenced the Nevada Reemployment and Eligibility Assessment model and research that showed positive employment outcomes using State ES staff, with the advocacy organization warning that the proposed rule could impede the program's effectiveness and integration with UI. The advocacy organization further wrote that Congress expanded the RESEA program last year and that privatization of services provided under RESEA grants would not align with the Congressional intent of that expansion.

The Department values the input highlighting the longstanding integration between the Wagner-Peyser

ES, UI, and RESEA programs. Where commenters linked ES and UI programs, especially the UI work test, and described the program founders' intent for merit-staffing, the Department notes that regardless of their intent, the statutory text of the SSA requires merit-staffing and the Wagner-Peyser Act does not. This final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation. Nonetheless, the Department emphasizes that any shift in staffing models must continue to uphold the integrity and effectiveness of both the UI and RESEA systems. Importantly, the proposed rule does not remove Federal oversight or alter the core responsibilities of these programs. SWAs must still fulfill their responsibilities to comply with § 652.209. States would remain fully accountable for meeting all relevant performance benchmarks, civil rights obligations, and safeguards to ensure program integrity. Where some commenters shared research that they claimed showed evidence that merit staff are cost effective and help job seekers find employment more quickly, upon review, such research did not support these claims. Specifically, the 2006 Upjohn Institute study's key research finding was about the positive impact of the reemployment services provided through ES, and it made no mention of differences attributable to merit or non-merit staffing. Furthermore, the study drew largely on information collected 20 to 40 years ago, including a 2003 survey and a literature review of eight studies published between 1985 and 2002, well before the significant impacts of technology on reemployment services. Cited research from Westat's 2004 evaluation simply does not show that merit-staffing produces better outcomes. The study itself attributes changes in enrollment to multiple IT and data changes, not staffing models, and had to exclude Michigan and Massachusetts, two of the three alternative staffing states, from certain analyses due to data limitations. The evaluation's key findings concluded that high-quality job matching systems well-stocked with job openings, well-trained staff that can meet the needs of a broad range of jobseekers, and well-managed one-stop centers that unify operations across multiple staff from different organizations produce better outcomes.

Cited research about State UI job search rules and research about

Nevada's RESEA program did not compare merit staff services with non-merit staff services; these studies did not mention merit staff or the role of merit staffing in the employment outcomes. Further, the permanently authorized and expanded RESEA program includes flexible staffing options that many States have successfully applied to increase service quality and availability. States that wish to maintain merit-staffing in their RESEA program can certainly do so, while other States can use the model that suits them best.

3. Concerns That Using Non-Merit Staff May Reduce ES Service Quality to UI Claimants

Several commenters, including a few unions and a form letter campaign, discussed a number of examples where the commenters believed that non-merit-based staff provided substandard or lower quality services to UI claimants. A few unions wrote that alternative staffing models in the demonstration States of Colorado, Massachusetts, and Michigan have been less effective at assisting workers than State merit-staffed programs. A form letter campaign described a team at an agency in California that employed non-merit-based staff to assist UI claimants, stating that the non-merit staff lacked adequate training and accountability and often provided incorrect information to UI clients. An advocacy organization similarly stated that contracting out administrative services leads to incentives that can undermine the services provided to UI claimants, while a think tank warned that staffing flexibility could result in an individual being led toward lower paying, less stable work.

A few unions criticized the temporary statutory exemption of the merit-staffing requirement during the pandemic as an example of how non-merit staff are not as effective at delivering employment services. The unions stated that under this exemption, many States hired privately contracted staff who were poorly trained, low-paid non-merit staff, resulting in high turnover among contracted staff and poor service for UI claimants. One such union further asserted that the research conducted on alternative staffing models, including those used in the demonstration States and during the pandemic exemption period in the 2004 Westat study and in an inaccessible 2022 working paper, respectively, suggest that the proposed rule change would have negative impacts on State employment services programs.

The Department acknowledges the commenters' concerns regarding the importance of maintaining the highest quality ES and WIOA Title I services for all customers. However, the Department disagrees that States that choose alternative ES staffing models will see a reduction in service quality. Some commenters presented mere anecdotes. The comments citing the Westat research do not show that merit-staffing itself produces better outcomes compared to alternative staffing models; rather, its key findings concluded that high-quality job matching systems, well-trained staff that can meet the needs of a broad range of jobseekers, and well-managed one-stop centers that unify operations across multiple staff from different organizations produce better outcomes. The Department reviewed performance data submitted to the Department by states and did not observe that States using alternative staffing models have worse outcomes than States that use State merit-staffing. All States, no matter what staffing model they use, will still be held accountable for the employment outcomes of the ES program.

4. Local Management of WIOA Services

A few commenters, including a think tank and a union, wrote that the proposed rule could result in local management and staff handling both WIOA and ES services and thus reducing the quality of WIOA services provided. The think tank discussed ES services provided in States with alternative staffing models and cautioned that WIOA one-stop centers primarily serve economically disadvantaged individuals with limited work history and that services for this population tend to prioritize rapid reemployment in jobs with faster and less costly training requirements that are at the lower end of the economic spectrum. Meanwhile, the commenter argued, UI programs integrated with ES typically serve individuals with recent employment history, so this population would benefit from a wide range of suitable employment opportunities that take advantage of prior skills and experience. The commenter discussed WIOA financial incentives based on employment placement and referenced studies, including the 2004 Westat study, that the commenter said concludes that preserving separate goals and funding streams for ES and WIOA agencies was beneficial. A union stated that union members reported misaligned program requirements and timelines across ES and WIOA title I programs. The commenter further discussed the 2004 Westat study of

work services in both "traditional ES States" and States with alternative delivery models, finding that merging ES with WIOA staff led to reduced quality and effectiveness of services. An anonymous commenter cautioned that "if WIOA gains control of Wagner-Peyser funding, it could harm job seekers," expressing concern that staff would not support all job seekers equally but assist only the individuals likely to achieve positive outcomes.

The Department acknowledges the commenters' concerns regarding the importance of maintaining the highest quality ES and WIOA Title I services for all customers. However, the Department disagrees that States that choose alternative ES staffing models will see a reduction in service quality and has previously noted in this rule the broader findings of the Westat study. While some commenters suggested that the ES and UI programs primarily serve individuals with recent work histories, whereas WIOA serves more economically disadvantaged individuals, the Department notes that these populations often overlap significantly. Many UI claimants are also eligible for and benefit from WIOA services. Further, the most effective integrated service delivery models support a broad range of job seekers, including dislocated workers, low-income individuals, and those with limited work histories, regardless of the entity providing services.

Regarding the concern that systems will shift toward assisting only individuals likely to acquire jobs, the Department emphasizes that WIOA title I and ES programs are held accountable for several of the same statutory performance measures; this rule does not change these accountability measures.

In response to concerns about misaligned program requirements and timelines across ES and WIOA title I programs, the Department notes that both programs are subject to the same statutory expectations for unified or combined State planning, receive program allotments simultaneously, and share common performance accountability measures and reporting timelines, while maintaining separate funding streams. Additionally, most career services authorized under the Wagner-Peyser Act also are authorized under the WIOA Adult and Dislocated Worker programs. This alignment supports staffing models that organize teams based on service functions rather than program funding streams, which can enhance coordination and improve service delivery.

The Department remains committed to ensuring that all job seekers receive high-quality services and that States maintain accountability for meeting Federal performance and service standards, regardless of the staffing model employed.

In contrast, a professional association and some individual commenters expressed support for consistency and continuity across programs, commenting that allowing States to use staffing flexibility would align with the current structure of allowing local workforce development boards to administer title I services. The professional association described Ohio local workforce board development staff delivering RESEA services and stated that single points of contact promote better engagement. An individual commenter also stated that reducing duplication would reduce silos, integrate accountability, and strengthen the one-stop delivery system under the management of local workforce development boards. The commenter added that existing State merit staff could be phased in to local systems to minimize job loss. Another individual commenter remarked that integrated case management also would align more easily with local economic development programs.

An anonymous commenter wrote that merit, non-merit, or hybrid staffing would allow integration across the network of AJCs and related programs, which would improve access to services. The commenter advised the Department to align the effective date of the proposed rule with the WIOA State plan cycle.

The Department appreciates the comments submitted by a professional association, individual stakeholders, and an anonymous commenter in support of the proposed staffing flexibility under the Wagner-Peyser Act. These comments reflect a shared vision for a more integrated, responsive, and locally aligned workforce system. Commenters noted that allowing States to use staffing flexibility aligns with the current structure of local workforce development boards administering WIOA title I services. The Department agrees that this alignment can promote greater consistency and continuity across programs, reduce duplication, and support a more seamless experience for job seekers and employers. The example provided by the professional association regarding Ohio's local workforce board staff delivering RESEA illustrates how local administration can enhance service delivery.

The Department also appreciates the comments emphasizing the benefits of

integrated case management and the potential for better alignment with local economic development initiatives. These perspectives are consistent with the Department's broader goals under WIOA to foster collaboration across programs and reduce service silos. Integrated staffing models can support more holistic service delivery, particularly when paired with strong performance monitoring and technical assistance.

The Department further appreciates the recommendation to align the effective date of the final rule with the WIOA State Plan cycle and will take that into consideration. The Department notes that States may modify their WIOA State Plan at any time to propose changes to ES staffing models.

5. Impacts Across Other Programs

A Federal elected official and a union warned that ending the merit-staffing requirement might impact case management services for Trade Adjustment Assistance (TAA) and staff with the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER).

While the Department appreciates the concern raised by a Federal elected official and union, the Department disagrees that the flexibility to permit States to select the most appropriate ES staffing model will, on its own, have any impact on the quality of case management across programs. Ending the Wagner-Peyser merit-staffing requirement does not interrupt services for TAA participants or for veterans served by DVOPs and LVERs. TAA case management is governed by the Trade Act and must continue to be delivered by trained TAA staff. DVOP and LVER positions are governed by title 38 of the U.S. Code and remain subject to all requirements in the Jobs for Veterans State Grants program, including the requirement that they be integrated into the ES in the State (38 U.S.C. 4102A(c)(2)(A)(i)(II)). This final rule touches only the staffing model for general ES labor-exchange activities and not the legal requirements or staffing protections for TAA or veteran programs. States will continue delivering these services seamlessly under unchanged Federal oversight, performance measures, and accountability systems.

An advocacy organization warned that contracting out administrative services could result in poor service provision due to the need to secure long-term and less competitive contracts to address complex bureaucratic tasks, as well as contract structures that incentivize contractors to screen or drop

clients unlikely to find job placement, giving examples of impacts in States that contracted out services for the Children's Health Insurance Program (CHIP), the Supplemental Nutrition Assistance Program (SNAP), and Medicaid.

The Department here clarifies that CHIP, SNAP, and Medicaid are means-tested benefit programs with eligibility criteria that determine who can receive services. These programs involve complex determinations of income, household composition, and other factors. In contrast, the ES regulation at § 652.207 requires making ES services universally available to all job seekers, regardless of income, background, or employment history. In many States and in many AJCs, job seekers can self-register and access employment services (supported by WIOA title I or ES) almost immediately; there are fewer opportunities for service providers deliberately to select participants who are most likely to succeed while avoiding individuals with more complex barriers to employment. This universal eligibility model inherently limits the potential for "creaming." Further, both WIOA title I and ES have identical performance measures; this final rule does not change performance accountability measures or their related supposed incentives to exclude individuals based on perceived difficulty in achieving job placement. Moreover, the ES operates within the WIOA one-stop delivery system, which is designed to provide seamless and coordinated services across multiple programs and providers. This system emphasizes universal access, co-enrollment, and shared accountability, further reducing the likelihood that any single provider could selectively serve clients without oversight.

A professional association asserted that local workforce development boards have historically integrated multiple funding streams, including WIOA, Temporary Assistance for Needy Families, and SNAP, into integrated delivery processes attuned to the labor markets and goals of the region.

The Department agrees that many local areas have demonstrated the capacity to align programs effectively to serve job seekers and employers. This final rule is intended to provide States with the flexibility to design staffing models that support such integration while maintaining program integrity and responsiveness to local economic conditions.

H. Removal of the Evaluation Requirement

A think tank and an individual commenter recommended that the study required by the 2023 Final Rule (to assess the effectiveness of State merit-staffing and the alternative staffing models used in the three demonstration States) should be completed in order to conduct evidence-based policy making effectively. The individual commenter remarked that maintaining the evaluation requirement and expanding it nationally would provide a comparison of States that retain merit-staffing standards for ES with those that do not.

Similarly, a Federal elected official expressed concern for removing the evaluation requirement, writing that removing the evaluation would be removing any future source of data for appropriate policy decisions. On the other hand, a State employee association expressed strong support for ending the evaluation of the delivery models in the three demonstration States.

The Department's NPRM proposed eliminating § 652.215 in its entirety, which included a mandatory evaluation of staffing models, because the rule is designed to preserve State flexibility and recognize wide variation in local labor markets, governance structures, and program goals. While it is not necessary for the Department to mandate that certain States participate in an evaluation, the Department continues to prioritize evidence-based policy and may study and build evidence in the most effective career services strategies for use in Wagner-Peyser ES and in all programs that help workers find jobs.

Removing the mandate for certain States to participate in an evaluation does not abandon rigor or accountability. This final rule does not prevent the Department from any future studies or evaluations about what strategies improve employment outcomes. The Department also encourages States to incorporate robust monitoring, outcome metrics, and targeted evaluations tailored to local policy questions. Therefore, the Department is finalizing the regulatory text as proposed.

I. ES Service Delivery and Accountability

1. Quality of Service Delivery

a. Concerns About Quality of Service Delivery

Many commenters, including unions, an advocacy group, and a Federal

elected official, expressed opposition to eliminating the merit-staffing requirement due to concerns of compromised quality in the services delivered by non-merit staff. A few unions and the advocacy organization asserted that alternative staffing in the demonstration States has been less effective than merit-staffing, with one union and the advocacy organization referencing the 2004 Westat research study on lowered job placement counts. An anonymous commenter remarked that contracted workers focus on short-term performance statistics to the detriment of mission effectiveness, and a think tank asserted that ES has consistently been found effective at engaging workers who would otherwise be ineffective job seekers.

Multiple commenters, including unions, a Federal elected official, and an advocacy organization, provided examples or research to support their assertion that using contract workers lowers the quality of ES services delivery. Referencing data from the U.S. Bureau of Labor Statistics (BLS), a form letter campaign and an individual commenter described insufficiencies in the private sector and the comparative benefit of receiving assistance from knowledgeable career State and local government employees. A union and the Federal elected official referenced studies, including the 2004 Westat study and the 2012 Nevada REA study, finding underperformance of referrals, placements, job openings, and registrations in programs that contracted out ES services, with the union further referencing research, including a March 2018 research briefing from In the Public Interest (ITPI) and a 2008 paper from the National Center for Law and Economic Justice, finding increased levels of Federal program denials under contractor management, including denials to eligible recipients.

A few commenters, including a form letter campaign, a union, and an advocacy organization, described instances of privatization in Indiana and Texas that resulted in a doubled error rate. A union and an advocacy organization referenced research on lowered job placement counts in States using alternative staffing models, with both commenters also citing a 2014 Oxfam briefing paper that, according to the commenters, found that administering government program services using public staff led to more access to those programs. The advocacy organization also described examples of corruption, financial mismanagement, and conflicts of interest in the contracting process, including the Michigan Integrated Data Automated

System (MiDAS) contract project in Michigan that created an algorithmic programming system to assess UI claims without human review or sufficient human oversight, as an illustration of private entities prioritizing efficient processes and profits over accuracy.

While the Department acknowledges these generalized concerns about privatization and potential risks associated with contracting generically, they do not reflect rigorous studies of ES nor ES staffing models. For example, the MiDAS system in Michigan refers to a UI automation effort and not staffing or staffing models. The few completed studies referenced, such as the 2005 Connecticut study (Connecticut: An Impact Evaluation of Workforce Development Activities) represents a single State's experience. The Oxfam briefing paper's focus is related to the role of free public health and education services in reducing global income inequality rather than employment services, and the ITPI and National Center for Law and Economic Justice research address Medicaid and eligibility determinations for certain public benefit programs, respectively, but not ES for which eligibility is universal. The Department declines to interpret these studies' findings as broadly applicable to all States or to the topic of this final rule. The 2004 Westat study referenced by several commenters simply does not show that merit-staffing produces better outcomes, and the study itself attributes changes in enrollment to multiple IT and data changes, not staffing models. The Department is currently conducting a multi-year, mixed-methods evaluation of ES and career services, expected to provide insights into the service strategies that produce positive employment outcomes.

A few unions criticized the quality of employment services provided during pandemic-era staffing privatization experiments as inferior, suggesting that those models recruited low-paid and poorly trained staff. One of the unions wrote that the pandemic-era contract staff administered both traditional and temporary UI programs, resulting in errors, corruption charges, and deficient work that increased the workload for State merit staff adjudicators required to correct the errors.

The Department recognizes the challenges experienced during this period; however, pandemic-era circumstances were unprecedented. The COVID-19 public health emergency created an extraordinary surge in demand for UI, requiring States to expand capacity rapidly under extreme time constraints. In response, Congress

enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which introduced several new temporary UI programs and significantly expanded eligibility and benefits. These programs were implemented on an emergency basis, with a rapid rollout, and required States to stand up new systems and processes quickly.

Some States turned to temporary, time-limited staffing solutions that were authorized under the CARES Act for UI to meet immediate operational needs. While these emergency measures were not without challenges, they were also not reflective of contracted services per se. Nor were the services procured following the precise rules and data review associated with UI claims at all similar to the career services within ES. The Department does not view the outcomes of these temporary, crisis-driven arrangements for UI service delivery as indicative of the potential effectiveness of alternative ES staffing models under more normal conditions. The Department notes that this final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation.

As noted in section V.C.1 of this preamble, the proposed rule does not mandate privatization or the use of contract staff. Rather, it provides States with flexibility to determine the most appropriate staffing structure to meet their workforce development goals while maintaining accountability for service quality and compliance with Federal requirements. States that choose to pursue alternative staffing models must ensure that staff are adequately trained, services are fairly delivered, and program integrity is preserved.

The Department remains committed to supporting States in building resilient, high-quality workforce systems that can serve all job seekers effectively, both in times of stability and in response to future disruptions.

One union remarked that during the pandemic, Congress temporarily waived the legal requirement for merit-based staffing in unemployment programs, which allowed States to hire private contractors, often with what the commenters described as undertrained and low-paid workers, to administer benefits like Pandemic Unemployment Assistance.

As noted earlier in this section, the temporary waiver of merit-staffing requirements for UI programs during the COVID-19 pandemic does not support the existence of a statutory mandate in a separate program like ES. Section 2106 of the CARES Act explicitly waived

Federal merit-staffing requirements for State UI programs on an emergency basis through December 31, 2020. This waiver was a legislative exception for UI, not an acknowledgment of a statutory requirement for ES.

Several commenters, including a form letter campaign, a think tank, and an advocacy group, discussed negative impacts of non-merit-staffing on program processes and procedures within employment services. The think tank asserted that non-merit-staffing may not mitigate some potential harms to customer experience caused by the increased use of AI, and that merit-staffing allows States to monitor the use of AI and algorithms in service delivery. A form letter campaign asserted that States historically have not always adopted the most efficient job service delivery models and reasoned that local priorities for immediate cost savings may not align with ES program goals. Critiquing programs in the demonstration States that provide ES services with other one-stop employment partners, a union asserted that this alignment diverts Federal funding and focus away from the essential and unique service performed by merit staff assisting the chronically unemployed.

The Department recognizes the critical role that career services like those delivered in ES play in serving individuals who face persistent challenges in the labor market. The Department takes seriously any concerns about inefficient service delivery. However, the rule does not alter the statutory mission of the ES program, nor does it reduce the obligation of States to provide high-quality, accessible services to all job seekers, including individuals with long-term unemployment. As noted in section V.C.1 of this preamble, the rule does not mandate the use of non-merit staff or privatization. The Department encourages States to keep the needs of discouraged workers and individuals experiencing long-term unemployment in mind when designing services.

An anonymous commenter urged a reconsideration of the proposal in order to allow continued merit-staffing to make process and efficiency improvements, and an individual commenter wrote that disruptions of employment services would add further negative impacts to individuals currently in need “at this moment.” While stating that there might be benefits to integrating ES with local delivery systems, an advocacy organization recommended that funding and operations remain separate in order to utilize statewide matching systems.

The commenter further expressed concern that the Department did not release previous study findings supporting this separate structure in a timely manner and might in the future withhold negative study results again. A think tank wrote that merit staff will be essential to continuing program growth and consistently implementing the use and oversight of future AI strategies.

The Department acknowledges the commenters’ considerations for current customers, timely research release, and the importance of human stewardship of AI where it intersects with the provision of ES services. The Department encourages any State that pursues an alternative ES staffing mechanism to consider continuity of service for current customers and plan accordingly to ease the transition from one model to another and to implement any staffing changes in a manner that avoids service interruptions. The Department will continue to provide technical assistance and oversight to ensure that transitions, where they occur, are managed responsibly and with minimal impact on job seekers.

Regarding the timely publication of research, the Department is committed to transparency and evidence-based policymaking. The Department has made all of its studies, and related research published by third parties, publicly available on the Department’s Clearinghouse for Labor Evaluation and Research or CLEAR, and on the web page for the Department’s Chief Evaluation Office, for over 10 years. The Department continues to follow the requirements within the Foundations for Evidence-Based Policymaking Act of 2018, which requires Federal agencies to work together to make data and research available to those who need it.

Finally, the Department agrees that staff expertise will be critical in ensuring that future innovations are implemented ethically and effectively. That staff expertise may be from merit staff or non-merit staff; the final rule does not preclude the use of merit staff for these purposes. The Department encourages States to ensure that the workforce system remains adaptive and forward-looking.

Several commenters, including a form letter campaign and unions, expressed concern about high turnover among non-merit workers. Referencing statistics from BLS, a form letter campaign and an individual commenter cited high turnover in the private sector and the comparative benefit of receiving assistance from knowledgeable career State and local government employees, while an anonymous commenter similarly described turnover issues and

comparative service quality among title I staff. A State government employee and an individual commenter gave personal negative examples of contracted workers providing job placement services, describing low-paid workers and high turnover, while an anonymous commenter similarly described high turnover, inconsistent training, and lack of experience. A State government employee asserted that the proposed rule would risk the loss of State merit staff’s institutional knowledge.

A few commenters, including a union and a form letter campaign, expressed support for the regulated nature of merit-staffing and described positive impacts on work performance. The union cautioned that contracting services introduces unhealthy competitive motivations for the service providers to keep costs and salaries low and for the contracted employees to meet job placement incentives, adding that these factors can interfere with effective service provision to underserved and less employable job seekers. Similarly, an individual commenter wrote that quality staffing is tied to the salaries and benefits provided to public merit staff working under regulated conditions, describing negative outcomes of privatization of government services such as prison health care, hospital services, and youth services. Providing survey findings on human services workers from a 2020 study by Zelnick and Abramowitz in the journal *Social Work*, a union wrote that using business strategies in human services agencies led to stress, burnout, time-consuming documentation and tracking of performance and outcomes, and insufficient time to interact with clients. The form letter campaign stated that State merit staff work under uniform standards and civil service protections and deliver services aligned with Federal guidelines, while an individual commenter stated that contract workers would not receive the uniform training given to merit staff and the quality of the service provided would suffer.

The Department agrees that worker competencies and expertise can affect customer experience and employment outcomes. Therefore, this final rule allows States to choose how to staff the important components of ES. The Department also acknowledges the comments concerned about turnover and the effects it may have on customers. Under this rule, States have the ability to determine their staffing models, and can therefore calibrate the compensation, training, career advancement opportunities, and

organizational culture, which can impact turnover, and which already vary significantly across staffing models and jurisdictions. The Department encourages States to consider these factors carefully when designing or modifying their staffing structures. As noted elsewhere, the final rule does not endorse or encourage any individual ES service model.

b. Flexible Staffing Could Improve ES Delivery and Claimant Engagement

A professional association argued that staffing flexibility would help streamline ES program service offerings to customers in need of training, upskilling, and job referrals. The commenter added that local workforce development systems with single points of contact promote better customer engagement leading to employment.

The Department appreciates the comment and agrees staffing flexibility and a single point of contact may improve customer engagement. This final rule permits States to determine the model most appropriate to their needs and the needs of job seekers.

2. ES Accountability

a. Concerns About Accountability

Multiple commenters, including a union and State government employees, opposed the proposed rule on the grounds that eliminating the merit-staffing requirement could compromise accountability in employment programs and staff. A State government employee stated that job centers need trained State merit staff to be held accountable for providing Wagner-Peyser services effectively and consistently, describing personal experiences as a State employee working with Wagner-Peyser staff in an employment program and witnessing ongoing lack of accountability to work standards from local workforce development management unfamiliar with workforce programs. Another State government employee wrote that private contracting companies often fire individual employees after issues arise rather than being accountable and addressing the issue. An individual commenter remarked that the Department has insufficient staff and resources to oversee employees working nationwide in 2,500 AJCs without the reliability of merit-staffing standards.

The Department agrees that accountability is essential to the effective delivery of ES services. Regardless of the staffing model a State adopts, it remains responsible for ensuring that services are delivered in accordance with Federal requirements,

including those related to performance and program integrity. The final rule does not diminish these responsibilities. To that end, the Department emphasizes the critical role of State oversight in maintaining accountability. States must establish clear expectations, training standards, and performance benchmarks for all staff delivering ES services. States are also responsible for monitoring service delivery, addressing deficiencies, and ensuring that all ES providers adhere to program goals and quality standards.

Moreover, accountability in the public workforce system is a shared responsibility. While the Department provides national guidance, technical assistance, and oversight, States and local areas play a central role in managing day-to-day operations and ensuring compliance. This multi-tiered structure is designed to promote transparency, responsiveness, and continuous improvement across AJCs.

The Department will continue to support States in building strong oversight systems, including through monitoring, performance reporting, and technical assistance. The goal of the final rule is not to reduce accountability, but to remove requirements the Department does not have the authority to set, and to provide States with the flexibility to design staffing models that best meet their workforce needs.

b. Contention That Merit-Staffing Could Improve In-Person Accountability in ES Provided by AI

A think tank discussed how the White House's AI action plan intends to have Federal agencies use AI to assist with public benefits delivery. While stating that AI is a potentially useful tool that could enhance employment services, the commenter warned that there is evidence to suggest that AI could exacerbate inequality. The think tank stated that using merit staff in conjunction with AI would alleviate this concern by ensuring fair and accountable service delivery as merit staff would be able to step in when algorithms fail and ensure that vulnerable populations such as women, older workers, and racial minorities would not be directed away from jobs where they are under-represented.

The Department appreciates the commenter's perspective and shares the view that emerging technologies, including AI, can play a valuable role in modernizing the public workforce system. This final rule does not address the use of AI in ES delivery. The rule maintains the requirement that States comply with all applicable civil rights

and nondiscrimination obligations under Federal law, regardless of the tools and staffing models used.

J. Concern for Negative Impacts on Farmworkers

An advocacy organization expressed concern that the proposed rule would undermine long-standing statutory and regulatory protections established under the Wagner-Peyser Act, particularly those designed to support MSFWs, arguing that Congress intended for ES functions to be carried out by professional, merit-based State staff due to the specialized and vulnerable nature of the MSFW population. The commenter stated that SWAs play a critical role in ensuring fair wages, safe housing, and compliance with labor protections—especially in the context of the growing reliance on the H-2A temporary agricultural labor program.

An advocacy organization and a farmworker advocacy organization outlined potentially negative impacts on farmworkers from the proposed rule change on merit-staffing. The advocacy organization and the farmworker advocacy organization asserted that non-merit staff are likely to lack expertise, oversight, and institutional accountability, resulting in a reduction in both quantity and quality of service to MSFWs, as well as enforcement capacity. The farmworker advocacy organization asserted that the proposed removal of the merit-staffing requirement would undermine the legal and ethical foundation of the Wagner-Peyser program and would have negative impacts on employment services for farmworkers. The commenter wrote that MSFWs face many barriers to employment services, including discrimination, geographic isolation, limited English proficiency, and fear of retaliation, reasoning that due to these barriers the merit-staffing requirement would be necessary to ensure qualitatively and quantitatively equitable access to employment services.

The farmworker advocacy organization further expressed concern that the rule would eliminate qualified, experienced Monitor Advocate positions designed to protect farmworker interests and cautioned that replacing them with untrained non-merit staff would risk undoing the progress made to date by the Monitor Advocate System. The commenter also asserted that elimination of Monitor Advocates would undermine DOL's own civil rights obligations, leaving MSFWs to face ongoing abuses such as wage theft, unsafe working conditions, and restricted access to services. The

advocacy organization similarly argued that outside contractors would not easily be able to obtain informational data to assist with evaluating job orders because they might lack the established relationships with employers, extension service agents, and farmworker advocates that many Monitor Advocates and longtime MSFW outreach workers have developed over time.

The advocacy organization cautioned that the SWAs that make up the Wagner-Peyser Act's ES system ensure that temporary farm labor jobs offer minimum prevailing wages and working conditions, as well as provide workers with safe and healthy accommodations. According to the commenter, allowing SWAs to outsource these services would likely lead to a deterioration of employment services to MSFWs. The commenter stated the Office of Foreign Labor Certification relies on SWAs to review job orders for compliance with H-2A regulations, which according to the commenter is essential to reduce errors that can disqualify dozens of potential U.S. job candidates. The commenter argued that non-merit staff with limited experience evaluating jobs against the Wagner-Peyser and H-2A criteria would be more likely to overlook improper job terms in clearance orders, resulting in a reduction of job opportunities for domestic MSFWs. The commenter concluded that the expertise possessed by merit-staff employees would be especially important due to recent exponential growth in the number of temporary labor certification applications.

Though commenters stated that non-merit staff would reduce quality and quantity of service due to their lack of expertise and ability, the commenters did not support that claim with evidence, and the Department has seen no evidence that merit-staffing changes impact quality or quantity of service. Even if States decide to provide services under a different staffing model, they would still be responsible for ensuring that outreach services are still being delivered and are high quality.

The Department reaffirms its commitment to ensuring that all workers, including MSFWs, receive the full range of career services as defined in WIOA sec. 134(c)(2). This final rule does not eliminate the Monitor Advocate System or the regulatory protections established under 20 CFR parts 653, 654, or 658. The Department continues to expect States to ensure robust protections for all workers, including MSFWs, regardless of the staffing method they implement. This final rule maintains requirements at part

653, subparts B and F, as well as at part 658. This includes the requirement in § 653.108 that each State designate an SMA who is a SWA official, which § 651.10 defines as an individual employed by the SWA or any of its subdivisions. As such, the SMA must continue to be State staff, though this final rule will no longer require SMAs to be merit staff. The rule also maintains that State Administrators and ES staff must not retaliate against any staff, including the SMA, for self-monitoring or for raising any issues or concerns regarding noncompliance with the ES regulations. Therefore, the Department believes that this final rule retains sufficient requirements to preserve the expertise necessary for staff to serve the MSFW population effectively.

With respect to concerns about the evaluation of job orders and enforcement of labor protections, the Department emphasizes that SWAs retain responsibility for reviewing job orders for compliance with Wagner-Peyser ES requirements. States must ensure that staff performing these functions are qualified and adequately trained. The Department will continue to provide compliance assistance and conduct monitoring to help ensure SWAs meet the requirements for processing job orders, including temporary agricultural clearance orders processed through the Agricultural Recruitment System (ARS) at part 653, subpart F, which include steps designed to ensure U.S. workers are not displaced or denied opportunities. Finally, the Department notes that this final rule does not authorize the outsourcing of core ES responsibilities without accountability. States that choose to use alternative staffing models must still comply with all applicable Federal requirements, including those related to MSFW services, complaint resolution, and job order clearance. The Department will continue to monitor State performance and enforce compliance to ensure that the integrity of the ES system and the rights of workers, including MSFWs, are preserved.

1. Comments Regarding Judge Richey Court Order Protections

An advocacy organization expressed further concern that the proposed changes would reverse reforms stemming from the case *NAACP, Western Region v. Brennan*, No. 2010–72 (D.D.C. Aug. 13, 1974), which addressed systemic discrimination and service denial to farmworkers and resulted in regulations, including merit-staffing and Federal-State oversight, that were designed to address these findings

and ensure services to MSFWs are qualitatively equivalent and quantitatively proportionate to those provided to non-MSFWs (known as the Judge Richey Court Order). The commenter concluded that allowing SWAs to outsource Wagner-Peyser services would erode institutional expertise.

Multiple advocacy organizations referenced the Judge Richey Court Order and subsequent departmental actions designed to address deficiencies in protections for MSFWs and require SWAs to be more responsive. A farmworker advocacy organization cautioned that MSFWs continue to face employment-related violations and that a reduction in the professionalism and accountability of those delivering employment and training services would further those injustices. Another advocacy organization stated that the proposed regulatory changes would undercut reforms such as affirmative action hiring, stronger outreach, and a Federal-State monitoring system brought about by the Judge Richey Court Order, asserting that in hopes of cutting costs many SWAs would choose to outsource their responsibilities to MSFWs. According to the commenter, outsourcing to non-merit staff would further weaken protections for U.S. workers at a time when more employers are looking to employ H-2A workers in place of their domestic workforce, which the commenter reasoned would directly contradict the Department's obligation to maximize hiring of U.S. workers and represent the sort of unlawful practices the Judge Richey Court Order was meant to address.

With respect to concerns that the rule would reverse reforms stemming from *NAACP, Western Region v. Brennan*, the Department respectfully disagrees. The Judge Richey Court Order resulted in the establishment of regulatory safeguards that are unaffected by this final rule (e.g., MSFW outreach, SMA requirements, the ES and Employment-Related Law Complaint System (Complaint System), and agricultural clearance order processing requirements, among other requirements).

This final rule does not alter the regulatory framework that protects MSFWs. Rather, it provides States with flexibility to determine the most effective staffing model for delivering ES services, while continuing to require that all services be delivered in accordance with applicable regulations at 20 CFR parts 651, 653, and 658. The Department agrees that the ES has an important role in recruiting U.S. workers before an employer can use the

H-2A program, which the Monitor Advocate System within the ES facilitates, while ensuring that MSFWs continue to have access to services and that employment law violations are identified and addressed.

2. Support for the Rule With Recommendations on Impacts to MSFWs

An anonymous commenter expressed support for the proposed rule, while also recommending potential safeguards and accountability measures that could ensure that MSFW protections would not be compromised by the staffing flexibility. The commenter urged that the final rule reaffirm the continued application of parts 653 and 658, provide uniform training and qualifications for all merit-based and non-merit-based ES staff, include strong quality assurance practices, promote transparent performance reporting, and provide for responsive corrective action.

The Department appreciates the commenter's support and recommendations. The final rule reaffirms that all States, regardless of staffing model, must continue to comply with the regulatory requirements under 20 CFR parts 653 and 658. These provisions include protections specific to MSFWs, complaint resolution procedures, and performance accountability measures. The Department will continue to provide technical assistance and training resources to States to support consistent implementation of ES services.

In addition to expressing its support for the proposed rule change, a State government agency urged DOL to rescind the language implemented under 20 CFR 653.107(a)(4) that defines "full-time" as requiring individual outreach staff to spend 100 percent of their time on outreach duties, arguing that this requirement limits staffing flexibility in large and agriculturally diverse States where MSFW activity is cyclical and geographically varied. The commenter also asserted that the mandate for States to contact a majority of MSFWs in the State annually constitutes a Federal overreach that limits State control and program autonomy. The commenter argued that the highly transient nature of the farmworker population in Texas creates challenges in determining an accurate count of the number of MSFWs at any given time, "making this metric difficult to measure and operationally burdensome to pursue." The commenter reasoned that the mandate requires States to prioritize quantity over quality regarding engagement with MSFWs and limits States' ability to focus outreach

efforts strategically to areas of greatest need, suggesting that allowing Texas to have more agility and local control in managing its outreach program would serve farmworkers more effectively.

As the Department did not propose changes to § 653.107(a)(4), the State government agency's recommendation is outside the scope of this rulemaking and the Department declines to adopt it at this time. The Department notes that States have flexibility in how they staff outreach positions and that States will continue to retain preexisting flexibility in determining how to structure their MSFW outreach.

K. Concerns About Effects on Other Vulnerable Populations

1. Potential Increase in Inequities in Service Access and Quality

Many commenters, including a form letter campaign, a few unions, and an advocacy organization, stated that eliminating the merit-staffing requirement could have disproportionately negative outcomes for vulnerable populations, including veterans, seniors, people with disabilities, and people living in rural communities. The form letter campaign argued that contracted or non-merit staff would lack the training, expertise, and accountability required to provide the specialized services that vulnerable populations rely on. A union warned that removing the merit-staffing requirement could compromise the impartiality of the ES system by enabling the type of widespread system abuses that led to the Wagner-Peyser Act's passage in the first place. The commenter added that the government has a duty to serve all individuals and that without merit-based staff, the government would not be able to guarantee meeting service obligations for vulnerable populations.

Many commenters, including a union and a form letter campaign, warned that because private entities may be motivated by profit, allowing States to contract out ES responsibility and oversight could result in a decrease in services provided to vulnerable individuals who may be viewed as more challenging to place in jobs. Several of these commenters added that because merit-based staff do not profit from the services they provide, they would be more likely to provide consistently high-quality support and ensure equity among all unemployed individuals. An individual commenter described for-profit providers as "incentivized by volume and speed, not by quality or fit" and thus less likely to focus on job seekers such as seniors, those with

disabilities, and the long-term unemployed, who need the most help.

Several commenters, including a union and an advocacy organization, argued that current and historical programs that eliminated the merit-staffing requirement experienced high rates of staff turnover, errors, and erosion of institutional knowledge and reduced accountability, which led to negative impacts on vulnerable populations. A few individual commenters described the impacts on programs in Indiana and Texas as examples of the negative outcomes that can result from the privatization of such programs, while an anonymous commenter wrote that veteran service delivery in the demonstration State of Michigan is inconsistent.

This final rule does not alter States' core responsibilities under the Wagner-Peyser Act. Regardless of the staffing model adopted, States must continue to comply with the full scope of applicable Federal regulations, including those found in 20 CFR parts 651, 652, 653, 654, and 658. These provisions set minimum service requirements, establish service delivery benchmarks, and require robust performance accountability. States also remain responsible for complying with all relevant nondiscrimination laws and regulations in their delivery of services. The Department remains steadfast in its commitment to ensuring that rural communities, like all others, have adequate access to ES services and that no population is left behind. The Department also affirms the value of a skilled and knowledgeable workforce. As noted earlier in this preamble, the Department fully expects States to ensure that all ES staff are properly trained, qualified, and supervised. States are ultimately responsible for delivering services that are fair and responsive to the needs of their communities.

In response to concerns about privatization and profit-driven service models, the Department reiterates that States remain accountable for the integrity and outcomes of their ES programs. States must ensure that all job seekers, including those who may be harder to serve, receive appropriate and effective assistance. The Department will continue to monitor program implementation through established oversight mechanisms, including routine monitoring and compliance assistance, in addition to ensuring States comply with self-monitoring requirements described at § 653.108 and internal controls applicable to Federal grants.

The final rule also preserves the requirement that each State designate an SMA, who will continue to be State staff because they must be a SWA official. The SMA position ensures institutional oversight of services to MSFWs, many of whom also belong to other vulnerable groups.

2. Flexible Staffing Could Protect or Improve ES Delivery and Outreach

An anonymous commenter argued that allowing staffing flexibility would assist States that serve a wide variety of labor markets, in part by deploying bilingual and rural outreach. The commenter reasoned that providing safeguards and accountability, as well as corrective-action triggers if outcomes deteriorate, would prevent the removal of the merit-staffing requirement from negatively impacting services provided to vulnerable populations. The commenter also suggested that the final rule should retain protections for priority populations and include continued application of outreach, the Complaint System, and SMA independence.

The Department appreciates the commenter's perspective and agrees that staffing flexibility must be accompanied by safeguards to ensure high quality and compliant service delivery. The Department reiterates that this final rule maintains all existing regulatory protections under 20 CFR parts 653 and 658, such as the complaint resolution system and performance accountability, and that States remain responsible for complying with all nondiscrimination laws, including the requirements of WIOA sec. 188 that apply to ES.

L. Other Comments on the Proposed Changes

1. Policy Recommendations

A farmworker advocacy organization, while opposed to the elimination of the merit-staffing requirement, provided policy recommendations should the Department decide to finalize a rule rescinding the merit-staffing requirement. The organization recommended that Regional Monitor Advocates (RMAs) must remain dedicated to MSFW-related work. It also urged that States must demonstrate that any non-merit-staffing models would provide the same consistency, efficiency, accountability, and transparency as the merit system. Finally, the organization requested that National Farmworker Jobs Program (NFJP) grantees are formally recognized as partners in MSFW outreach.

The Department appreciates the recommendations and provides the

following response. First, Federal RMA staffing is outside of the scope of this rule. Second, the final rule explains in several places that using whatever staffing model States choose, States must continue to provide high-quality services that meet the ES grant requirements.

An individual commenter reasoned that the best reading of the Wagner-Peyser Act requires the use of State merit-based ES staff to administer the willingness to work test and requested that the Department address this issue in the final rule. The commenter discussed sec. 7(a)(3)(F) of the Wagner-Peyser Act regarding the RESEA program as well as the use of cross-trained ES staff funded under Federal grants-to-aid to assist in inherently governmental duties associated with the work test, fact gathering, and RESEA.

The Department appreciates the comment and its emphasis on the importance of UI work test requirements. Ultimately, this final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation, including determinations related to work search requirement compliance. Any appropriately trained staff member, including Wagner-Peyser and RESEA staff members, may support UI claimants in their work search, but if such staff members detect any potential eligibility issues during the provision of these services, they must communicate those to appropriate State merit staff for adjudication.

2. In Support of the Rule Change With Clarification

An anonymous commenter expressed their support for the proposed rule change and argued that it allows States to deliver faster, higher quality services, without sacrificing protections for those served. The commenter urged the Department to finalize the proposed rule with several clarifications. Specifically, the commenter recommended repealing § 652.215 and reaffirming State discretion for flexible staffing while meeting ES, MSFW, and Complaint System standards. The commenter also suggested requiring State Plans to describe the chosen staffing model, staff training and credentialing, MSFW coverage and language access, data privacy, and quality assurance. Furthermore, the commenter proposed that the Department publish model contract clauses regarding training, confidentiality, conflicts of interest, complaint handling, and data security to ensure alignment with merit standards.

Finally, the commenter emphasized the importance of preserving SMA independence, including access to records and authority to take corrective action, regardless of staffing model implemented.

The Department appreciates the commenter's recommendations and notes that the final rule already incorporates or addresses most of the noted clarifications. Specifically, this final rule maintains parts 653, 654, and 658, without revisions. The Department believes that the requirements are sufficiently clear and does not believe it is necessary to revise the regulations further.

The Department appreciates the recommendation regarding publishing model contract clauses regarding training, confidentiality, conflicts of interest, complaint handling, and data security. The Department will provide training and compliance support to SWAs to help ensure ES programs comply with preexisting requirements for these topics, which are preserved by this final rule in parts 653 and 658, as well as in the Uniform Guidance. The Department notes, however, that the requirements at parts 653 and 658, and in the Uniform guidance, are distinct from the merit standards, which this final rule does not maintain.

VI. Rulemaking Analyses and Notices

A. Review Under Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation), and Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)

E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing

economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Under section 6(a) of E.O. 12866, the Office of Information and Regulatory Affairs (OIRA) within OMB determines whether a regulatory action is significant and, therefore, subject to OMB review. E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this final rule is a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, the Department submitted this final rule to OIRA for review under E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits.

President Trump issued E.O. 14192, titled “Unleashing Prosperity Through Deregulation,” on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the “new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs” associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O. 12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This final rule is not subject to the requirements of E.O. 14192 because this rule results in no more than de minimis costs.

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this final rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

The Department received a comment regarding the required cost-benefit analysis. An anonymous commenter described E.O.s 12866 and 13563 as emphasizing evidence-based policymaking and argued that the proposal’s cost-benefit and historical analyses do not meet those standards. The Department appreciates the commenter’s emphasis on the importance of evidence-based

policymaking. While the Department recognizes the need for comprehensive cost-benefit and historical analyses, the Department currently faces limitations due to insufficient data. The Department is committed to rigorous analysis and will continue to seek relevant data that align with these standards in future assessments.

1. Statement of Need

The Department is rescinding its requirement that services in the Employment Service (ES) be delivered exclusively by State merit staff because, upon reexamination, that mandate lacks a sound statutory foundation and exceeds the Department’s authority under the Wagner-Peyser Act. Section 3(a) of the Act empowers the Department to assist States in prescribing “minimum standards of efficiency” for ES programs, but it nowhere compels the use of State merit-system employees. Reading the provision as authorizing a blanket merit-staffing rule distorts the Act’s plain text and legislative design and imposes undue burden upon States’ limited State ES resources. This burden falls disproportionately on States that made changes to their ES staffing models in response to the 2020 Final Rule.

2. Alternatives Considered

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. The Department considered alternatives as part of determining whether to issue this final rule. These alternatives included delaying the compliance date of the merit-staffing requirement in § 652.215 by 1 year, 2 years, and 3 years. While the Department decided to delay the compliance date for 1 year in a final rule published on January 21, 2026, ultimately the Department decided that removing § 652.215 in its entirety would be the least burdensome for the States, as the existing merit-staffing requirement is not consistent with the Department’s statutory authority.

The Department considered merely delaying the compliance date in § 652.215 to allow additional time for the Department to review the 2023 Final Rule. However, the uncertainty associated with only delaying the compliance date would have placed additional cost burdens on the States, as this uncertainty would have prevented States from effectively planning their services, staffing, and IT systems. Ultimately, the Department determined

that the removal of the merit-staffing requirement in its entirety would be the least burdensome to the States.

During the public comment phase, a union criticized the regulatory alternatives proposed by the Department as unsubstantial and simply various timelines for the States to comply with eliminating the merit-staffing requirement, warning that any such change would cause chaos within State ES service programs.

The Department understands the commenter’s concerns. However, the Department did not receive suggestions for more substantive alternatives during the comment period. Additionally, it is important to clarify that the Department is not eliminating merit-staffing; rather, the Department is offering States added flexibility to determine the most cost-effective means of delivering Wagner-Peyser ES services and is removing the mandatory merit-staffing requirement to be more consistent with the Department’s statutory authority.

3. Economic Analysis

This final rule eliminates a requirement rather than imposing a new one. The Department anticipates that the final rule will result in costs related to rule familiarization. Any voluntary changes to staffing models may incur transfer costs during a transition phase. In addition to monetized cost savings, this final rule will likely provide non-quantifiable benefits to States and to society. For example, the added staffing flexibility this final rule gives to States will allow them to identify and achieve administrative efficiencies.

In the NPRM, the Department asked for comments on anticipated costs, benefits, and transfers, including overlooked studies and data. Several commenters, including a Federal elected official, identified flaws in the NPRM’s economic analysis, especially noting the lack of a formal cost-benefit analysis.

In the NPRM, the Department estimated familiarization costs and clarified that any voluntary changes in staffing models may incur transfer and transition costs. However, the Department argues that many of the rule’s projected effects, such as shifts in staffing mixes, localized procurement choices, and differing State labor markets, are highly heterogeneous and hinge on State policy decisions, collective bargaining outcomes, and transient economic conditions. As such, producing a single monetized estimate across such varied contexts with a reasonable degree of confidence is not feasible.

Opposition to the Rule on a Cost Basis

Many commenters, including a form letter campaigns, a union, and an advocacy organization, stated that the NPRM does not provide evidence or data that support its cost saving claims.

A form letter campaign, an advocacy organization, and a Federal elected official described the Department's cost-benefit analysis as inadequate. The form letter campaign stated that the analysis failed to meet the "reasoned determination" requirement under E.O. 12866 because it did not account for social and institutional costs of undermining a merit-based public service infrastructure. A union criticized the Department's assumption that "economic actors are rational and select the best choice after considering information on costs and outcomes," the lack of quantified cost savings, and the non-quantifiable and undefined benefits.

A Federal elected official criticized the analysis as limited in scope, failing to compare similar workers in the private and public sectors. The commenter further asserted that research performed by the Economic Policy Institute contradicted the analysis and that the analysis relied on Occupational Employment Statistics data that are inappropriate for the comparison.

Several commenters, including an advocacy organization, a union, and a few individual commenters, contended that privatization of employment services would increase costs. Several individual commenters warned of potential contract cost inflation or profit motives from privatization. A union and an individual commenter argued privatization could introduce additional levels of program and contract management, which would increase costs and impact services. The union cited a March 2014 working paper from Rutgers University that stated that monitoring and compliance expenditures associated with contracting services added 20 percent to project costs, and they also cited the standard assumption from the Government Finance Officers Association of 10–20 percent for contract monitoring and administration costs. The union cited another study that stated that completely merging the ES with WIA staff led to a reduction in cost effectiveness. The advocacy organization asserted contracting out complex employment services requires long term contracts that eliminate beneficial competitive pressure and would not reduce costs. An advocacy organization cited a study from the

Project on Government Oversight that stated that the Federal government paid 1.85 times more for contracted work compared to using Federal workers. The advocacy organization also cited numerous audits of State public services, including in California, Arizona, and Florida, all of which stated that privatizing the public services led to cost overruns and overbilling.

Several commenters, including a Federal elected official, an advocacy organization, and a State government agency, argued merit staff provide direct and indirect cost savings to employment services. The State government agency described their merit-staffing employment services as lower in cost than would be the case with contracting services. The advocacy organization claimed the 2004 Westat study stated that placements through a merit-staffing system both increase claimant earnings and save money per claimant. The advocacy organization also cited several other audits, including in Tennessee and Indiana, that stated that public services provided by State employees would or did save money. The commenter further elaborated that savings in labor costs do not necessarily lead to overall savings in program costs due to inefficiencies, misallocation, and kickbacks. The Federal elected official cited the same 2004 Westat study as stating that the merit-staffing-based States' benefits exceeded costs by as much as two to three times, and the official represented the January 2012 study of Nevada's RESEA program by Michaelides et al. as stating that merit-staffing requirements led to lower total benefit payouts.

Several individual commenters asserted that the long tenure of merit staff avoids turnover or training costs. Similarly, an individual commenter argued that revisiting the merit-staffing requirement is an ineffective use of Government resources.

The Department acknowledges commenters' concerns and arguments, and notes the extremely mixed results from studies. The Department is committed to providing flexibility to States and removing regulatory mandates that exceed the Department's statutory authority. The Department encourages each State to conduct its own cost-effectiveness analysis to determine the most advantageous approach for its unique circumstances. The Department is not mandating that States discontinue their merit-staffing systems; rather, the Department recognizes that if the provision of services by the private sector or local governments proves to be more cost-effective, it may be beneficial to explore

that option. Conversely, if maintaining State merit-staffing is the most effective choice, it may be beneficial to retain the status quo. Ultimately, each State should assess and choose the option that yields the highest net benefit for its residents.

Support for the Rule on a Cost Basis

A State government agency and a local workforce development board expressed support for the rule for its proposed cost savings. The commenters argued that merit-staffing increases costs and reduces the number of job seekers served. The local workforce development board described administration and indirect fees that the Massachusetts SWA requires and argued that, without merit-staffing, those funds could be directed toward additional staffing. The State government agency stated that reinstituting their service delivery model with the rule would make more resources available to help job seekers find employment and save administrative costs. The State government agency argued that allowing States to choose the most effective staffing model would result in the most efficient use of Federal funds.

The Department appreciates the feedback and reiterates its commitment to removing regulatory mandates that exceed the Department's statutory authority and providing States the flexibility to make staffing decisions that best meet their unique needs. Each State has the opportunity to perform its own cost-effectiveness analysis to evaluate its options. The Department is not imposing a requirement to abandon State merit-staffing; rather, the Department acknowledges that if utilizing private sector or local government services is deemed more cost-effective, it may be a prudent choice to make that transition. On the other hand, if State merit-staffing is more advantageous, its continuation may be the prudent choice. Ultimately, it is up to each State to determine which approach offers the greatest net benefit for its residents.

a. Rule Familiarization Costs

Regulatory familiarization costs represent direct costs to States associated with reviewing the new regulation. The Department anticipates that Human Resources Managers (SOC code ¹ 11–3121) employed by SWAs will review the changes in the final rule. The Department anticipates that it will take one Human Resources Manager an

¹ This analysis uses codes from the Standard Occupational Classification (SOC) system and the North American Industry Classification System (NAICS).

average of 1 hour to review the final rule.

BLS Occupational Employment and Wage Statistics data show that the mean hourly wage of State government Human Resources Managers is \$51.90.² The Department assumes a 62-percent benefits rate³ and a 17-percent overhead rate,⁴ so the full loaded hourly wage is \$92.90 [= \$51.90 + (\$51.90 × 62%) + (\$51.90 × 17%)]. Therefore, the Department estimates the one-time rule familiarization cost for all 54 jurisdictions (the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands) to be \$5,017 (= \$92.90 × 1 hour × 54 jurisdictions).

b. Transition Costs and Transfer Payments From States to Employees

As there is no mandate within these regulations to use one specific staffing model, any changes from one staffing model to another would be voluntary by the State, and such changes would result in transition costs to States as well as transfer payments from States to employees providing ES services. Changing staffing systems is not without costs. Even if the same employees provide Wagner-Peyser services, changing the staffing system may still create burdens for the State and the employees themselves. This may require a change in employer by moving from State employment to local government employment and may have consequences for the employee in terms of pay and benefits, including health insurance and retirement benefits. Changing employers would also require the time and expertise of Human Resources professionals to process the paperwork to affect these changes. Because of these considerations, the Department anticipates that States will need to weigh the costs and benefits of any staffing model before making changes.

In previous Wagner-Peyser rulemakings, the Department attempted to quantify potential costs or cost savings for the States. In the 2020 Final Rule, the Department surveyed a range

of States of different size classes and attempted to infer the cost savings nationwide from allowing staffing flexibility. The total estimated wage savings for the 2020 Final Rule was \$6,754,691 per year (2018\$), which is approximately \$8,631,000 in 2025 dollars. The Department's analysis assumed a 50 percent substitution rate, meaning that States would choose to re-staff half of their positions with personnel other than State merit staff based on States' determination that such models would be more efficient and less expensive. The Department expects wage savings to vary among States based on each State's substitution rate.

In the 2023 Final Rule, the Department provided estimates of rule familiarization costs and information collection costs; however, due to data limitations, the Department was unable to quantify the transition costs or transfer payments that were likely to be incurred by the three States (*i.e.*, Delaware, Indiana, and Missouri) that implemented the staffing flexibility provided by the 2020 Final Rule as they re-transitioned the delivery of all ES services to State merit staff. The Department did not anticipate that the transition costs or transfer payments would be large enough for the 2023 Final Rule to be deemed a significant regulatory action under sec. 3(f)(1) of E.O. 12866.

Neither analysis was a comprehensive analysis of the specific individuals performing ES services for each specific State, the cost of providing the same services under a different staffing model, or whether there were other barriers or impediments to changing staffing models other than the regulation at § 652.215.

Removing the merit-staffing requirement allows the States to perform this granular analysis, consider their own State statutes and agreements, and select the staffing model that delivers the required services in the most efficient manner available to them. Some jurisdictions may find that their current models are the most cost effective. Others may find that a more cost-efficient model exists and decide to change staffing structures. Still others may find that a more cost-efficient option exists but choose to remain with State merit-staffing due to State statutes, collective bargaining agreements, or the need to use ES staff as surge capacity for other governmental functions. The Department lacks sufficient information about the changes States will make to their staffing models; therefore, we are unable to conduct a quantitative analysis of the transition costs to States associated with this rulemaking. In the

NPRM, the Department invited comments on the anticipated transition costs to States with the goal of ensuring thorough consideration and discussion at the final rule stage.

In economic theory, it is assumed that economic actors are rational and select the best choice after considering information on costs and outcomes. Based on this, in practice, if States are deciding based on staffing costs, it is unlikely that States would switch to a more costly staffing model that would provide the same required services. States would either choose their current status quo or a more cost-efficient staffing model. Therefore, while the Department cannot quantify the exact cost savings to the States, it can conclude that the removal of the merit-staffing requirement will not be more costly than the current baseline, and may yield cost savings to the States.

A form letter campaign and a union criticized the Department's discussion of the transition costs for States. The union argued that the Department did not provide an estimate of the transition costs, and the form letter campaign wrote that the proposed rule would create added complexity, burdens, and potential labor disputes to workforce planning, particularly for States that already restructured their staffing models to comply with the 2023 Final Rule.

The Department recognizes that transition costs can vary significantly from State to State. These costs are short-term expenses that States should carefully consider when evaluating the long-term net benefits of staffing changes. Unfortunately, the Department lacks sufficient data to provide specific estimates of such costs for each State. The Department encourages each State to factor these transition costs into their cost-effectiveness analyses to ensure a comprehensive assessment of their options.

The Department recognizes that some States may find it more cost-effective to maintain the status quo rather than implement staffing changes, while others may identify long-term benefits in making such changes. Each State should carefully weigh the potential advantages against the short-term transition costs involved. By making informed decisions based on long-term outcomes, States can achieve net benefits while also considering the implications of either retaining or modifying their current staffing systems.

c. Transfers From Employees to States

For the economic analysis in the 2020 Final Rule, the Department surveyed a sample of States to estimate the wage

² BLS, "Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Estimates, NAICS 999200" SOC Code 11-3121, May 2024, <https://data.bls.gov/oes/#/industry/999200> (last visited Feb. 10, 2026).

³ BLS, "National Compensation Survey, Employer Costs for Employee Compensation," <https://www.bls.gov/ecec/data.htm> (last visited Feb. 10, 2026). For State and local government workers, wages and salaries averaged \$38.45 per hour worked in 2024, while benefit costs averaged \$23.81, which is a benefits rate of 62 percent.

⁴ Cody Rice, U.S. Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program," June 10, 2002, <https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005> (last visited Feb. 10, 2026).

savings that would result from the added staffing flexibility. The Department surveyed eight States—representing three tiers of Wagner-Peyser Act funding—and asked them to provide the total number of Full-Time Equivalent (FTE) hours worked by State merit staff dedicated to delivering Wagner-Peyser Act-funded services, as well as the occupational title for all employees included in the FTE calculations. Based on the staffing patterns in the three States that the Department previously granted exemptions (*i.e.*, Colorado, Massachusetts, and Michigan), the Department assumed a 50 percent substitution rate in its wage savings calculations.

The Department then calculated the difference between the fully loaded wage rates of government workers and workers in all sectors to estimate the wage savings for the States within each of the three funding tiers. The Department then multiplied the results for each tier by the appropriate ratio to estimate the wage savings for the entire tier, and then added together the estimated wage savings for each tier. In total, the estimated savings of the 2020 Final Rule was \$6,754,691 per year (2018\$), which is approximately \$8,631,000 in 2025 dollars. Wage savings will vary among States, with each State's wage savings dependent on the choices it makes for staffing.

For purposes of E.O.s 12866 and 14192, the base wage and fringe benefit portions of these estimated savings are categorized as transfers from employees to States.

A form letter campaign and a union argued that the NPRM's characterization of wage savings as transfers from employees to States is insufficiently supported. The form letter campaign asserted the characterization overlooks the value of skilled, experienced ES staff providing individualized service while maintaining consistent quality and compliance with Federal mandates. The union argued the characterization overlooks the cost of poorer service that would result from privatization and further asserted the only cost estimates tied to transfers from employees to States inherit methodological flaws from the 2020 Final Rule, including inaccurate estimates of wages and compensation, inappropriate data and assumptions, and lack of comparison between the public and private sectors. The union wrote that when DOL substituted updated data but kept the same methodology, the purported annual savings fell by more than 76 percent, and concluded that DOL's own

data would show cost increases rather than net savings for States.

The Department lacks the data necessary to calculate transfer amounts for each State and did not receive data during the public comment period that could assist in estimating these transfers. As a result, the Department must base its assessments on the information currently available.

d. Non-Quantifiable Benefits

This final rule will likely provide benefits to States and to society. The added staffing flexibility will allow States to identify and achieve administrative efficiencies. Given the estimated cost savings that will result, States will be able to dedicate more resources under the Wagner-Peyser Act to the provision of services to job seekers and employers. These services, which help individuals find jobs and help employers find workers, will provide economic benefits through greater employment. These resources can also provide States with added capacity to deliver more career services, including individualized career services, which studies have shown improve employment outcomes.

An individual commenter and a professional association asserted both quantifiable and non-quantifiable benefits would result from the proposed rule. The individual commenter argued that small businesses in particular would enjoy benefits by allowing local workforce development boards to oversee both WIOA and Wagner-Peyser services, which would streamline and simplify communication. The professional association contended benefits from staffing flexibility are quantifiable, describing examples from Michigan and Virginia where the commenter stated that flexible staffing used during the COVID-19 pandemic resulted in increased performance and decreased operational costs and stating that in Colorado, every \$1 in Wagner-Peyser funding generates \$44.80 in local economic benefits. The commenter concluded the return on investment in Colorado demonstrates the value the proposed rule could bring.

The Department appreciates the acknowledgment of these benefits. As States conduct their own cost-effectiveness analyses, some may find that these advantages resonate with their goals. By providing States the flexibility to evaluate these benefits in their unique contexts, the Department aims to enhance overall outcomes and support informed decision making that reflects the specific needs of each State.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. chapter 6, requires the Department to evaluate the economic impact of this final rule on small entities. The RFA defines small entities to include small businesses; small organizations, including not-for-profit organizations; and small governmental jurisdictions. The Department must determine whether the final rule will impose a significant economic impact on a substantial number of such small entities. The Department concludes that this final rule does not regulate any small entities directly, so any regulatory effect on small entities will be indirect. Accordingly, the Department has determined this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

C. Paperwork Reduction Act of 1995

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. See 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves it under the PRA and it displays a currently valid OMB control number. The public also is not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the

collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

This final rule does not impose any new collection of information. The Department notes that the change of the staffing requirement will necessitate simple changes to the WIOA State Plan Information Collection Request (1205–0522), which currently requires States to provide information regarding the staffing model States use to deliver ES services, among the other information States submit in their State Plans. However, this final rule will not change the burden hours associated with submitting the State plans to the Department. In accordance with the PRA, the Department submitted an information collection request (ICR) to OMB in association with the publication of the NPRM. In addition to the substantive merit-staffing requirement change, the Department also proposed non-substantive changes to the State Plan ICR to conform with requirements in E.O. 14151. The public had the opportunity to submit comments on the ICR, either directly to the Department or to OMB. The 60-day period for the public to submit comments began with the submission of the ICR to OMB. The Department did not receive comments on the ICR. The Department notes that OMB approved the non-substantive changes to the State Plan ICR on December 1, 2025. The remaining changes to the State Plan ICR made in association with the NPRM are consistent with the narrow focus of the merit-staffing requirement change outlined in this final rule. The other core programs will not be impacted by the changes in this ICR package. Therefore, the ICR is being finalized consistent with this final rule.

The information collection in this final rule is summarized as follows.

Unified or Combined State Plan and Plan Modifications Under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education

Agency: DOL–ETA.

Title of Collection: Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education.

Type of Review: Revision.

OMB Control Number: 1205–0522.

Description: Under the provisions of WIOA, the Governor of each State or Territory must submit a Unified or Combined State Plan to DOL, which is

approved jointly with the U.S. Department of Education (ED), that fosters strategic alignment of the six core programs, which include the adult, dislocated worker, youth, Wagner-Peyser Act Employment Service, Adult Education and Family Literacy Act, and Vocational Rehabilitation programs.

Affected Public: State, local, and tribal governments.

Obligation to Respond: Required to obtain or retain benefits.

Estimated Total Annual Responses: 38.

Estimated Total Annual Burden Hours: 8,135.8.

Estimated Total Annual Other Burden Costs: \$501,503.

Regulations Sections: DOL programs—20 CFR 652.211, 653.107(d), 653.109(d), 676.105, 676.110, 676.115, 676.120, 676.135, 676.140, 676.145, 677.230, 678.310, 678.405, 678.750(a), 681.400(a)(1), 681.410(b)(2), 682.100, and 683.115. ED programs—34 CFR parts 361, 462, and 463.

D. Review Under Executive Order 13132 (Federalism)

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. E.O. 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to assess carefully the necessity for such actions. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. The Department has reviewed this final rule in light of these requirements and has concluded that it meets the requirements of E.O. 13132 by enhancing, rather than limiting, States’ discretion in the administration of the Wagner-Peyser Act ES program.

Accordingly, the Department has reviewed this final rule and has concluded that the rulemaking has no substantial direct effects on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government as described by E.O. 13132. Therefore, the Department has concluded that this final rule does not have a sufficient federalism implication to require further agency action or analysis.

E. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation), sec. 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor does DOL expect this final rule to require expenditures of \$100 million or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

The Department received one comment related to unfunded mandates. While expressing support for the proposed rule, a State employee association urged the Department to consider further means to enhance staffing flexibility, including reconsidering provisions in the 2023 Final Rule. The commenter argued that requiring MSFW outreach staff to spend 100 percent of their time on outreach activities and requiring that States contact a majority of MSFWs in their jurisdictions annually represent unfunded mandates for States and create operation challenges and rigidity.

The Department did not propose reconsideration of these particular 2023 Final Rule provisions in the NPRM and declines to address these provisions in this final rule. The Department repeats what the Department stated in the 2023 Final Rule. The Wagner-Peyser Act, as amended by WIOA, authorizes ES activities. These program requirements are supported by Federal formula grant

funds, and accordingly, are not considered unfunded mandates.

F. Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed this final rule under the terms of E.O. 13175 and DOL's Tribal Consultation Policy and has concluded that the changes to regulatory text will not have tribal implications. These changes do not have substantial direct effects on one or more Indian tribes, the relationship between the Federal government and Indian tribes, nor the distribution of power and responsibilities between the Federal government and tribal governments.

G. Plain Language

E.O. 12866, E.O. 13563, and the Presidential Memorandum of June 1,

1998 (Plain Language in Government Writing), direct executive departments and agencies to use plain language in all rulemaking documents published in the **Federal Register**. The goal is to make the government more responsive, accessible, and understandable in its communications with the public. Accordingly, the Department drafted this final rule in plain language.

List of Subjects in 20 CFR Part 652

Employment, Grant programs—Labor, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 652 as follows:

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICE

■ 1. The authority citation for part 652 continues to read as follows:

Authority: 29 U.S.C. chapter 4B; 38 U.S.C. chapters 41 and 42; Secs. 189 and 503, Public Law 113–128, 128 Stat. 1425 (Jul. 22, 2014).

§ 652.215 [Removed and Reserved]

■ 2. Remove and reserve § 652.215.

Marek Laco,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–16982 Filed 8–19–26; 8:45 am]

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Part IV

Department of Justice

Bureau of Alcohol, Tobacco, Firearms, and Explosives

Office of the Attorney General

27 CFR Part 478

28 CFR Parts 0, 25, and 107

Application for Relief From Disabilities Imposed by Federal Laws With
Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or
Possession of Firearms; Final Rule

DEPARTMENT OF JUSTICE**Bureau of Alcohol, Tobacco, Firearms, and Explosives****27 CFR Part 478****Office of the Attorney General****28 CFR Parts 0, 25, and 107**

[Docket No. OAG191; AG Order No. 7109–2026]

RIN 1105–AB78

Application for Relief From Disabilities Imposed by Federal Laws With Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives, Office of the Attorney General, Department of Justice.**ACTION:** Final rule.

SUMMARY: The Department of Justice (“the Department”) is implementing criteria to guide determinations for granting relief from disabilities imposed by federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms. The criteria are designed to ensure that the fundamental right of the people to keep and bear arms is not unduly infringed, that those people granted relief are not likely to act in a manner dangerous to public safety, and that granting such relief would not be contrary to the public interest.

DATES: This rule is effective September 21, 2026. Starting on September 21, 2026, the Department will begin soliciting applications from individuals.

ADDRESSES: To learn more about how the Department will accept applications, please go to <https://www.justice.gov/ffrr>.

FOR FURTHER INFORMATION CONTACT: Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530; telephone: (202) 514–9251.

SUPPLEMENTARY INFORMATION: This final rule provides a brief overview of the relevant history of federal firearms prohibitions, a recitation of the background that has motivated the issuance of this rule, a summary description of the earlier published interim final rule and notice of proposed rulemaking, a description of the final rule as adopted after consideration of the comments received on the interim final rule and the notice of proposed rulemaking, a summary of the public comments received, and the

options for relief for the individuals impacted by this rule.

I. Background

The Gun Control Act of 1968 (“GCA”), Public Law 90–618, 82 Stat. 1213, prohibits several categories of persons from “ship[ing] or transport[ing] in interstate or foreign commerce, or possess[ing] in or affecting commerce, any firearm or ammunition,” or “receiv[ing] any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.” 18 U.S.C. 922(g) (“section 922(g)”). For example, the statute prohibits firearm transfer, possession, or receipt by persons convicted of a crime punishable for a term exceeding one year. 18 U.S.C. 922(g)(1). This particular prohibition is based on Congress’s conclusion that individuals “convicted of serious crimes” may “be expected to misuse” firearms.¹

The GCA also provides that a “person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.” 18 U.S.C. 925(c). Congress created this mechanism in recognition of the fact that some persons subject to the GCA’s restrictions on activities related to firearms may be able to demonstrate that they “will not be likely to act in a manner dangerous to public safety” and that granting them relief from federal firearm disabilities “would not be contrary to the public interest.” *Id.* Granting such relief in appropriate cases would, among other things, protect the Second Amendment right of the people to keep and bear arms in a manner that is consistent with public safety considerations. Section 925(c) thus provides an opportunity for the Attorney General to provide relief to persons who would otherwise be subject to federal firearms disabilities if they can show that they are likely to possess firearms safely and in a manner consistent with the public interest, while also ensuring that violent or otherwise dangerous persons continue to remain prohibited under the GCA from engaging in certain activities related to firearms.

The authority to determine who qualifies for relief pursuant to section 925(c) was initially delegated to the Bureau of Alcohol, Tobacco, Firearms,

and Explosives (“ATF”) by an Assistant Secretary within the Department of the Treasury, *see* 26 CFR 178.144 (1969), and, after ATF was transferred to the Department of Justice, by the Attorney General, *see* 27 CFR 478.144 (2003). However, ATF’s administration of section 925(c) proved difficult, insofar as relief from disability was based on ad hoc determinations that were resource-intensive, inconsistent, and sometimes resulted in outcomes that were not wholly consistent with public safety.² Beginning in 1992, Congress prohibited ATF from using appropriated funds to process applications under section 925(c), rendering ATF’s relief from disabilities program unusable.³

II. Background Prompting Issuance of the Rule

In 2025, the Department began developing a modernized process for firearms-rights restoration that would (1) address the flaws of the defunct ATF process and (2) ensure that restoration decisions made by the Attorney General are consistent with the statutory requirements that an individual who receives relief must not be likely to endanger the public and that relief must be consistent with the public interest. In March 2025, the Attorney General issued an interim final rule withdrawing the delegation of authority to ATF to administer section 925(c). *See* Withdrawing the Attorney General’s Delegation of Authority, 90 FR 13080 (Mar. 20, 2025) (“IFR”). The IFR stated that “the Department anticipates future actions, including rulemaking consistent with applicable law, to give full effect to 18 U.S.C. 925(c) while simultaneously ensuring that violent or dangerous individuals remain disabled from lawfully acquiring firearms.” *Id.* at 13083.

In July 2025, the Department issued a notice of proposed rulemaking (“NPRM”), outlining anticipated criteria for evaluating applications for relief under section 925(c). *See* 90 FR at 34394. Among other things, the NPRM proposed to set forth several categories

² Congress expressed dissatisfaction over several aspects of the ATF determinations, including outcome inconsistencies stemming from a lack of guidance; the restoration of firearms rights to individuals who posed ongoing public safety concerns; and the expenditure of substantial time and money on investigations that diverted resources from the investigation of violent crimes. *See* Application for Relief from Disabilities Imposed by Federal Laws with Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms, 90 FR 34394, 34395 (July 22, 2025) (discussing congressional findings on the ATF process).

³ Treasury, Postal Service, and General Government Appropriations Act, 1993, Public Law 102–393, 106 Stat 1729, 1732 (1992).

¹ *Dickerson v. New Banner Inst., Inc.*, 460 U.S. 103, 119 (1983).

of applicants who would be “presumptively unable to establish” that they would “not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest.” *Id.* at 34402. These proposed categories of applicants included persons with prior violent felony offenses, including homicide, kidnapping, terrorism, stalking, and other offenses commonly understood to be violent; persons with prior convictions involving the brandishing or discharge of a firearm; and persons required to register under the Sex Offender Registration and Notification Act (“SORNA”), 34 U.S.C. 20911–20932, based on an offense that prohibits them from owning a firearm under section 922(g). Further, the NPRM proposed presumptively restricting individuals with certain prior convictions from receiving relief for a period of time following the discharge of any sentence related to those convictions. For example, those with drug trafficking convictions or misdemeanor domestic violence convictions would be presumptively disqualified from obtaining relief for at least 10 years after completing their sentences. Individuals with felony convictions not otherwise triggering the 10-year presumptive disqualification would be presumptively disqualified from obtaining relief for a period of five years after completing their sentences.

The NPRM also addressed those persons whose federal firearms disability arises from sections other than section 922(g)(1), such as 922(g)(2) (fugitives from justice), 922(g)(3) (unlawful users of controlled substances), and 922(g)(8) (those subject to domestic violence restraining orders). Because such persons’ disabilities arise not from past conduct alone, but also from other indicia of lack of respect for the law and potential dangerousness, the NPRM proposed that these persons would presumptively be denied relief under section 925(c). 90 FR at 34396. However, these persons can ordinarily take themselves out of their prohibited category by discontinuing their unlawful conduct or, in the case of section 922(g)(8), seeking a modification or early termination of the protective order.⁴ The NPRM further explained

that individuals subject to the prohibition in section 922(g)(5) (unlawfully present aliens or certain aliens admitted to the United States on nonimmigrant visas) would also be presumptively disqualified because “unlawful aliens are not part of ‘the people’ to whom the protections of the Second Amendment extend.” *United States v. Sitladeen*, 64 F.4th 978, 987 (8th Cir. 2023) (“*Sitladeen*”). Finally, the NPRM proposed additional provisions (1) describing the documentation required to submit an application for relief from disability (which varies depending on the type of disability the applicant is seeking to relieve); (2) imposing a requirement for applicants to submit three sworn statements from character references attesting to various statements supportive of the request for relief; (3) mandating notification of the fact of application to the Chief Law Enforcement Officer in the applicant’s jurisdiction of residence, who would have the opportunity to opine on the appropriateness of granting the applicant relief; (4) setting a fee required for an application for relief; and (5) outlining common and relevant considerations that the Attorney General would utilize to evaluate applications for relief. The NPRM concluded by addressing administrative matters, including the public announcement of grants of relief and special rules for federal firearms licensees.

III. Comment Analysis and Department Response

The Department received 12,154 comments in response to the IFR of March 20, 2025, and 3,405 comments in response to the NPRM of July 22, 2025, totaling 15,559 comments. Submissions came from individuals, non-profit and advocacy organizations, government officials, business entities, and academics. Of these submissions, roughly 91 percent of the comments, or 14,140 comments, were generally in agreement with the objective of the IFR and NPRM to reinvigorate the restoration process. Roughly nine percent of comments, or 1,293 comments, were generally against the rule, and the remaining 126 comments

were deemed to be irrelevant, duplicative, or unclear. A total of 4,476 comments were deemed to be unique substantive comments, while 11,037 comments were form letter submissions, *i.e.*, comments submitted by individuals with identical or near identical text that is often supplied by advocacy organizations or found online.

The overwhelming majority of public comments received were generally in support of the rule’s objective to establish a process for restoring firearms rights. Commenters noted the importance of the constitutional right to bear arms in general (“I believe the second amendment is the most important of all [t]he Constitutional Amendments.”); for self-defense (“I feel that denying the right of non-violent persons to defend themselves and their family from violent criminals and wild animals is a denial of the right to life.”); for employment (“I did work as a security guard and was fired because [I] could not get my [Firearm Owner’s Identification Card] card in Illinois.”); for hunting (“I am restricted to hunting with a bow and arrow, and I do love bow hunting, but I am more than a little nervous that I cannot protect myself adequately should I need to.”); for the enjoyment of other household members (The lifelong ban on felons owning firearms has “forced law-abiding citizens to have to choose between marrying the love of their life and owning a firearm for defense in many cases.”); or for other reasons.

Among those who were opposed to the rule, most cited public safety concerns (“It would be far safer for the country if the Department halted its push to establish a new firearm disability relief program, as there are significant risks inherent in any process of restoring firearm rights to those who have lost them because of felony convictions, domestic violence offenses, or other conduct prohibited by federal law.”); or concerns with the specific process outlined in the NPRM (“The administrative requirements of the application process are overly burdensome and will make relief illusory for many who, even though they would be eligible on the merits, would not have the means or sophistication to navigate the process.”).

Below, the Department sets forth the key issues raised in the comments on the IFR and NPRM, outlines the public sentiments on each issue, and then responds to each issue. Notably, the Department did not receive comments requiring a response that pertained to all potential disabilities identified under section 922(g). The Department received no such comments on the disabilities

⁴ See *United States v. Rahimi*, 602 U.S. 680, 698–99 (2024) (finding that the burden of section 922(g)(8) “fits within our regulatory tradition” in part because, “like surety bonds of limited duration,” its restriction is “temporary”) (“*Rahimi*”); *Range v. Att’y Gen.*, 124 F.4th 218, 252 (3d Cir. 2024) (en banc) (Krause, J., concurring in the judgment) (“[T]he Second Amendment demands that the disability it imposes has at least the potential to be ‘of limited duration[.]’” (quoting *Rahimi*, 602 U.S. at 699)) (“*Range*”); *United States*

v. Perez-Garcia, 96 F.4th 1166, 1181 (9th Cir. 2024) (holding that the Bail Reform Act’s prohibition on possessing any firearm as a condition of pretrial release does not violate the Second Amendment where, even though it “imposes a heavy burden on Appellants’ rights to bear arms,” the condition “is a temporary one”); *United States v. Posey*, 655 F. Supp. 3d 762, 775–76 (N.D. Ind. 2023) (“The burden imposed by [section] 922(g)(3) only endures for as long as the individual is an unlawful user or addict, leaving them free to regain their full Second Amendment rights at any time.”).

under section 922(g)(2) (pertaining to fugitives from justice) or 922(g)(8) (pertaining to those who are subject to a court protective order). Instead, the comments requiring a response were focused on the section 922(g)(1) prohibitor for convictions punishable by more than one year's imprisonment (discussed in multiple sections of this preamble below), the 922(g)(3) prohibitor for drug use (discussed in section III.F.2 of this preamble below), the 922(g)(4) prohibitor for adjudications of mental illness (discussed in section III.H of this preamble below), the 922(g)(5) prohibitor for unlawful or otherwise nonqualified aliens (discussed in section III.F.2 of this preamble below), the 922(g)(6) prohibitor for dishonorable military discharge (discussed in section III.C of this preamble below), the 922(g)(7) prohibitor for renounced citizenship (discussed in section III.F.2 of this preamble below) or the 922(g)(9) misdemeanor domestic violence prohibitor (discussed in multiple sections of this preamble below).

A. The Department's Legal Authority To Issue and Implement This Rule

Comments Received: Commenters questioning the legal authority of the Department to engage in this rulemaking were divided between those who argued that any or most statutory restrictions on firearms possession are unlawful (and thus that Department regulatory authority pursuant to those statutes is invalid) and those who argued that specific provisions in the NPRM exceeded the Department's authority. In the first group, many commenters decried the lifetime restriction on felons possessing firearms and expressed their belief that any restriction on gun possession violates the Constitution. As one commenter stated, "no person—even a felon, if non-violent—should be deprived of the right of effective self-defense, of defense of family, loved ones, and innocents under attack, as we have seen in church and school shootings." Others opined that permanent bans on felons possessing firearms may violate recent Supreme Court precedent. One commenter opined that "[a] lifetime ban [on firearm possession under 18 U.S.C. 922(g)] with no relief mechanism is constitutionally suspect, especially after the Supreme Court's decisions in *Heller* and *Bruen*,"⁵ while another stated that "[a]ll gun laws are an infringement one way or another and therefore

unconstitutional, illegal crimes against the supreme law of the land."

In the latter group, commenters expressed concern that the NPRM's proposed requirements and presumptive disqualification criteria exceeded the statutory authority granted in 18 U.S.C. 925. For example, one group dedicated to preventing gun violence argued that the NPRM inappropriately proposed to permit the Attorney General to consider whether "a failure to grant relief would infringe the applicant's rights under the Second Amendment" (quoting NPRM, 90 FR at 34404). This group also argued that "the primary, indeed *only*, relevant consideration under Section 925(c) is whether restoring the individual's lawful firearm access would threaten public safety" and thus that "DOJ need not rely on an individual rights balancing test in order to [adjudicate applications for relief] because those seeking relief are not 'ordinary, law-abiding citizens' [6] protected by the Second Amendment." Conversely, a group dedicated to supporting individual gun rights opined that the rule "exceeds the authority of the enabling statute by narrowing the exercise of official discretion with broad-based presumptions" such as the presumptive disqualifications proposed in the NPRM.

At least one commenter, an advocacy group dedicated to firearm safety, opined that the revival of a restoration process would violate congressional appropriations laws that defunded the ATF program and prevented the transfer of any ATF functions to another government entity. Some commenters expressed concern that states still could restrict individuals' firearms rights notwithstanding federal restoration, while others suggested that a state restoration should presumptively effect a federal restoration too. Finally, at least one commenter opined that exempting from section 922(g) disability those individuals who have had their state convictions expunged under 18 U.S.C. 921(a)(20) creates a disparity across different states that could violate equal protection.

Department Response: The Department appreciates the public's interest in the rights restoration process and observes that the varied and often diametrically opposed views from members of the public demonstrate the complexity of this matter, thus supporting the necessity of creating a well-crafted and functional rule to implement this vital process. Regarding the Department's authority to engage in

this rulemaking and to implement processes and procedures regarding this rule, section 925(c) authorizes the Attorney General to develop a process to review and evaluate applications for relief. Further, this rulemaking is consistent with the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and its rulemaking requirements, as well as prior mechanisms utilized to accomplish this same objective, *see* 27 CFR 478.144 (2003).

In addition, although the Department acknowledges the comments of some individuals that Second Amendment rights should be entirely unfettered, the existence of reasonable restrictions on gun ownership, such as those established in section 922(g), is wholly consistent with Supreme Court precedent and the history and tradition of the United States. The Supreme Court has often stated that its decisions should not be interpreted "to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill." *Heller*, 554 U.S. at 626; *see also McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010). Indeed, circuit courts have routinely affirmed the constitutional validity of section 922(g).⁷

To be sure, the Supreme Court recently concluded that the application of one particular prohibition in section 922(g) was unconstitutional as applied in certain defined circumstances. *United States v. Hemani*, 46 S. Ct. 1677 (2026). But that was a consciously "narrow" decision, *id.* at 1693, that turned on a lack of evidence that the defendant's use of marijuana indicated his addiction, his inability to manage his own affairs, or his dangerousness to others, *id.* at 1689. The Court also explicitly stated that its decision should not be read to cast doubt on other provisions of section 922(g), *id.* at 1692 n.6, or even on applications of section

⁷ *See United States v. Langston*, 110 F.4th 408, 419–20 (1st Cir.), *cert. denied*, 145 S. Ct. 581 (2024); *Zherka v. Bondi*, 140 F.4th 68, 91–93 (2d Cir. 2025) (Lynch, J.), *cert. denied*, No. 25–269, 2026 WL 135708 (U.S. Jan. 20, 2026) ("Zherka"); *United States v. Barton*, 633 F.3d 168, 172 (3d Cir. 2011), *overruled on other grounds by, Binderup v. Att'y Gen.*, 836 F.3d 336 (3d Cir. 2016) (en banc); *United States v. Canada*, 123 F.4th 159, 161–62 (4th Cir. 2024); *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025); *United States v. Williams*, 113 F.4th 637, 661–63 (6th Cir. 2024) ("Williams"); *United States v. Carbajal-Flores*, 143 F.4th 877, 887–89 (7th Cir. 2025); *United States v. Cunningham*, 114 F.4th 671, 675 (8th Cir. 2024); *United States v. Duarte*, 137 F.4th 743, 761–62 (9th Cir. 2025) (Wardlaw, J.), *cert. denied*, No. 25–425, 2026 WL 135692 (U.S. Jan. 20, 2026); *United States v. McCane*, 573 F.3d 1037, 1047 (10th Cir. 2009), *cert. denied*, 559 U.S. 970 (2010); *United States v. Battle*, 347 F. App'x 478, 480 (11th Cir. 2009) (per curiam).

⁵ *See District of Columbia v. Heller*, 554 U.S. 570 (2008) ("Heller"); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022) ("Bruen").

⁶ The commenter did not cite a specific source but was presumably quoting *Bruen*, 597 U.S. at 9.

922(g)(3) distinct from the application at issue, *id.* at 1685 n.2, 1693.

The Department also disagrees with the concerns raised by some commenters that this regulation as a whole exceeds its statutory authority or violates the Second Amendment. As to the comment from the gun violence prevention group that the Department is unconstitutionally incorporating an “individual rights balancing test” into its assessment of individual applications and that the population of persons seeking relief is not part of the group of people protected by the Second Amendment, the Department disagrees. First, the commenter did not clearly define “individual rights balancing test,” but assuming that the argument is that the persons seeking relief under this program are not entitled to the protection of the Second Amendment, the Department takes the opposite position. All citizens are entitled to Second Amendment protections consistent with Supreme Court precedent and the history and tradition of the United States. Such persons might engage in conduct or have a status that, consistent with the Second Amendment, allows for their disarmament in certain circumstances. But that does not mean that the government must treat such persons as falling permanently and entirely outside the scope of the amendment. The Constitution sets a floor for the protection of Second Amendment rights, not a ceiling. It is accordingly consistent with the Constitution for the government to choose to consider whether persons who have been previously disarmed under section 922(g) should have their firearms rights restored.

Next, the statutory relief mechanism for those who are prohibited from owning firearms under section 922(g) is to apply to the Attorney General for restoration pursuant to section 925(c). The final rule provides guidance to implement this mechanism for relief. Consistent with the statute’s requirement that the applicant must not be likely to act in a manner dangerous to public safety and that the granting of the relief must not be contrary to the public interest, the Attorney General will employ the final rule’s criteria to determine whether to restore the federal right to own a firearm. Thus, the final rule does not exceed the Attorney General’s statutory authority.

The Department also disagrees with the comments from the firearm safety group asserting that presumptive standards of disqualification cannot be utilized to create an effective and efficient process that is both

constitutionally and statutorily sound. Although the Second Amendment right is critical, it is not unfettered, as noted above. It has been held constitutional for Congress to disarm individuals when doing so is consistent with the history and tradition of the nation.⁸ Further, courts have repeatedly found that disarming those who pose a danger to themselves or others is lawful,⁹ and that people who have been convicted of certain types of crimes may be found dangerous without an extensive, individualized inquiry.¹⁰

The final rule delineates the types of serious offenses that are closely linked to dangerousness and that would allow the Department to make “self-evident” determinations, *Williams*, 113 F.4th at 660, about presumptive disqualification. As noted in the preamble to the NPRM, this presumptive list includes violent offenses drawn from “crime of violence” definitions; crimes otherwise closely associated with violence; and offenses where the offenders demonstrate high recidivism rates.¹¹ Each of these offense categories satisfies the courts’ description of offenses that are all but “totally dispositive” as justification for a presumptive dangerousness finding.¹²

The final rule also carefully designates certain statuses that make an individual presumptively ineligible for relief under section 925(c) because his

⁸ See, e.g., *Williams*, 113 F.4th at 657 (“[M]ost applications of [section] 922(g)(1) are constitutional.”).

⁹ *Rahimi*, 602 U.S. at 698 (“When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.”); see also *Simmons*, 150 F.4th at 134 (“Congress has assessed domestic violence misdemeanants, as a class, to be dangerous . . . because such people have a proven track record of actually committing violent acts, or of threatening violence, in the past. Thus, [section] 922(g)(9) fits squarely within this nation’s history of disarming those considered to be a danger to the physical safety of others.”); *Zherka*, 140 F.4th at 91 (“Congress’s conclusion that a felony conviction demonstrates a character or temperament inconsistent with the safe and prudent possession of deadly weapons is an appropriate exercise of its longstanding power to disarm dangerous categories of persons.”).

¹⁰ *Williams*, 113 F.4th at 660 (“Courts may consider any evidence of past convictions in the record, as well as other judicially noticeable information—such as prior convictions—when assessing a defendant’s dangerousness And in many instances . . . , the dangerousness will be self-evident.”); *United States v. Coward*, No. 24–1885, 2025 WL 2694156, at *2 (6th Cir. 2025) (“And some offenses are so obviously dangerous that committing one is all but ‘totally dispositive.’” (quoting *Williams*, 113 F.4th at 658)); *Zherka*, 140 F.4th at 93 (“Because history reveals a tradition of categorical legislative bans on firearms possession by classes of people perceived as dangerous, a prohibition directed at persons convicted of serious crimes is among the easiest classifications to justify.”).

¹¹ NPRM, 90 FR at 34396.

¹² *Coward*, 2025 WL 2694156, at *2.

or her conduct demonstrates ongoing disregard for the law, triggers exclusion from the right to bear arms, or carries a time-limited prohibition that the individual can independently cure before applying for relief. These statuses include (1) fugitives from justice, prohibited under section 922(g)(2), who should be required to resolve their fugitive status (either by surrendering or taking other appropriate legal action), and if applicable, address the underlying conduct leading to their fugitive status, before applying for relief; (2) unlawful users of, or persons addicted to, a controlled substance, prohibited under section 922(g)(3), who should be required to address their addiction or demonstrate that they have not engaged in a dangerous “pattern of ongoing use” of a controlled substance¹³ before applying for relief; (3) aliens unlawfully or temporarily in the country, prohibited under section 922(g)(5), who are excluded from the definition of those who have a right to bear arms and who should be required to adjust their status before applying for relief;¹⁴ and (4) persons subject to protective or restraining orders, prohibited under section 922(g)(8), who should be required to resolve or complete the protective order’s terms before applying for relief. Applicants with these statuses either can independently take themselves out of the ineligible status or have failed to exhaust available judicial and administrative remedies that would resolve the ineligible status, meaning that they generally do not need the process made available by section 925(c) to address their firearms disability.

Further, notwithstanding the presumption that persons with these types of offenses or statuses are unable to obtain relief, the final rule provides that, in “extraordinary circumstances,” an individual applicant may be able to overcome this presumption. Thus, this section 925(c) process goes beyond what courts have required in the determination of who should be ineligible to handle firearms by allowing for an individualized assessment of a person’s fitness to exercise Second Amendment rights in extraordinary

¹³ See 27 CFR 478.11 (Meaning of terms: Unlawful user of or addicted to any controlled substance) (“A person is not an unlawful user of a controlled substance . . . if the person’s unlawful use is isolated or sporadic or does not otherwise demonstrate a pattern of ongoing use.”); see also *Hemani*, 146 S. Ct. at 1693; section III.F.2 of this preamble.

¹⁴ *Sittladeen*, 64 F.4th at 987 (“[U]nlawful aliens are not part of ‘the people’ to whom the protections of the Second Amendment extend.”). See section III.F.2 of this preamble for further discussion of this issue.

cases, as opposed to relying solely on categorical or presumptive rules.

The Department also disagrees that the rule would unlawfully circumvent appropriations restrictions on ATF or violate applicable budget riders. Budget riders dating from 1992 through January 2026 have restricted ATF from expending any funds for investigations under section 925(c).¹⁵ For several reasons, these riders do not prevent the Department from issuing this final rule. First, the relevant rider is phrased as a proviso, and the “office of a proviso” is “to except something from the operative effect . . . of the substantive enactment to which it is attached.” *Cox v. Hart*, 260 U.S. 427, 435 (1922). Consistent with that principle, the Department has interpreted appropriations provisos as presumptively limited to the specific line items to which they are attached. *See The Effect of an Appropriations Rider on the Authority of the Justice Department to File a Supreme Court Amicus Brief*, 14 Op. O.L.C. 13, 16 (1990). Here, the section 925(c) rider appears as a proviso to a specific appropriation account—the account for “necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, for training of State and local law enforcement agencies . . . , and for provision of laboratory assistance to State and local law enforcement agencies.” 140 Stat. at 23. The proviso thus does not apply to the Department as a whole.

Second, the rider refers only to “the funds appropriated herein.” *Id.* That phrase contrasts with many other riders that use broader language to restrict, for example, all funds “made available in this title,” *id.* at 68–69, “made available by this Act,” *id.* at 40, or “appropriated or otherwise made available by this Act,” *id.* at 54. Where “Congress uses certain language in one part of a statute and different language in another, it is generally presumed that Congress acts intentionally.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 544 (2012). This presumption is especially strong here because several of those broader riders appear within nearby Department of Justice appropriations, *see* 140 Stat. at 23 (“none of the funds made available by this Act or any prior Department of Justice Appropriations Act”), including one in the very next sentence (as discussed below), *see id.* Again, then, the rider does not broadly apply to the Department as a whole.

Finally, the legislative record shows that a key purpose of the 925(c) rider is

to preserve ATF enforcement resources. The Senate Appropriations Committee noted in its report regarding the original rider that “ATF agents spend many hours investigating a particular applicant” and concluded that “the approximately 40 man-years spent annually to investigate and act upon these investigations and applications would be better utilized to crack down on violent crime.” S. Rep. No. 102–353, at 19–20 (1992). “Therefore,” the Committee explained, it had “included language in the bill which prohibits the use of funds for ATF to investigate and act upon applications for relief from Federal firearms disabilities.” *Id.* at 20. The House Appropriations Committee offered a similar explanation. *See* H.R. Rep. 102–618, at 14 (1992). Because this final rule would not involve ATF personnel or resources in the processing of relief applications, the rule is consistent with the rider’s stated purpose of preserving ATF resources.

The Department also disagrees that appropriations riders regarding the transfer of ATF functions prevent the issuance of this rule. Appropriation riders have since 1994 prohibited ATF from transferring its “functions, missions, or activities” to “other agencies or Departments.”¹⁶ The final rule does not violate this restriction because processing applications pursuant to 18 U.S.C. 925(c) is not a “function[],” “mission[],” or “activity[]” of ATF. Processing such applications is a statutory function of the Attorney General, which ATF, in the past, performed by delegation, *see* 27 CFR 478.144 (2024). ATF, however, has long been statutorily barred from acting on that delegation to process relief applications by the appropriations riders discussed above. Thus, when Congress includes the transfer rider in appropriations acts, it legislates against a long historical background establishing that section 925(c) processing is not one of the “functions” or “activities” that ATF actually performs. Further, as discussed above, Congress’s apparent reason for barring ATF from processing section 925(c) applications was that it viewed such processing as a distraction from ATF’s duties. *See* S. Rep. No. 102–353, at 19–20; H.R. Rep. 102–618, at 14. This background suggests that, by the time Congress first enacted the transfer rider, Congress did not consider the processing of section 925(c) applications to be a proper “function[]” or

“activit[y]” of ATF or as falling within ATF’s “mission[].”

This view is consistent with the statutory text. The processing of section 925(c) applications is a power given expressly “to the Attorney General,” not to ATF. 18 U.S.C. 925(c). No applicable statute limits the Attorney General’s authority to delegate this function, withdraw a previous delegation of this function, or amend previous rules regarding this function.¹⁷ This rule thus properly establishes a process for the Attorney General to exercise his own authority under section 925(c); it does not transfer a function, mission, or activity of ATF.

Next, the Department shares commenters’ concerns regarding states’ failure to recognize the federal restoration process; it plans to work with state partners to ease those concerns and encourage their recognition of the federal process.¹⁸ Further, 18 U.S.C. 921(a)(20) explicitly exempts convictions that have been expunged or set aside from serving as a prior conviction for purposes of section 922(g), thus obviating the need for persons with such state offenses to pursue federal relief. To the extent that some forms of state-level relief may leave an individual subject to restrictions on firearms under section 922(g), the Attorney General may

¹⁷ Agencies are presumed to have the inherent authority to reconsider their prior decisions. *E.g.*, *Ivy Sports Med., LLC v. Burwell*, 767 F.3d 81, 86 (D.C. Cir. 2014) (Kavanaugh, J.) (“[A]dministrative agencies are assumed to possess at least some inherent authority to revisit their prior decisions, at least if done in a timely fashion [I]nherent authority for timely administrative reconsideration is premised on the notion that the ‘power to reconsider is inherent in the power to decide.’” (citations omitted)); *Macktal v. Chao*, 286 F.3d 822, 825–26 (5th Cir. 2002) (“[I]t is generally accepted that in the absence of a specific statutory limitation, an administrative agency has the inherent authority to reconsider its decisions.” (collecting cases)); *Mazaleski v. Treusdell*, 562 F.2d 701, 720 (D.C. Cir. 1977) (“We have many times held that an agency has the inherent power to reconsider and change a decision if it does so within a reasonable period of time.”).

¹⁸ For examples of scholarship examining the ways that state law may treat firearms restoration, *see* Benjamin Bowers, *Act 631 and HB 1013—Recently Enacted and Proposed Legislation Concerning the Restoration of Firearm Rights for Convicted Felons*, 45 U. Ark. Little Rock L. Rev. 825 (2023) (discussing then-pending legislation in Arkansas on restoring firearms rights to certain convicted persons); Robert Luther, III, *The Quiet Army: Felon Firearm Rights Restoration in the Fourth Circuit*, 23 Wm. & Mary Bill Rts. J. 237 (2014) (discussing firearm restoration practices in states within the jurisdiction of the U.S. Court of Appeals for the Fourth Circuit); Ethan Tourtellotte, Note, *Second Chances for Second Amendment Rights: Prohibited Persons, Restoration of Rights, and Lifetime Bans in Light of New York State Rifle & Pistol Ass’n v. Bruen*, 48 Okla. City U.L. Rev. 109, 159–62 (2023) (surveying various state firearm restoration statutes).

¹⁵ *See, e.g.*, Department of Justice Appropriations Act, 2026, Public Law 119–74, div. A, tit. II, 140 Stat. 17, 23.

¹⁶ William J. Krouse, Cong. Rsch. Serv., R44189, *Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): FY2016 Appropriations* at 23 (updated Dec. 30, 2015).

consider the relief as a factor in his ultimate decision on that person's section 925(c) application. Additionally, the Department disagrees that considering state-level relief in this way, or enforcing 18 U.S.C. 921(a)(20) with respect to expunged state convictions, would violate equal protection principles applicable to the federal government through the Due Process Clause of the Fifth Amendment. Effectuating states' relief decisions is rationally related to the government's objective of restoring firearms rights in a manner consistent with public safety and the public interest. *See Sitladeen*, 64 at 988 (explaining why rational-basis review, rather than heightened scrutiny, applies to equal-protection claims brought by individuals who have been constitutionally disarmed under section 922(g)).

B. Standard of Proof

Comments Received: Commenters were split about the appropriate standard of proof for an application for relief from disability under section 925(c), with some commenters supporting automatic restoration of rights for certain groups of applicants, some opposing it, some proposing alternative criteria to consider, and some seeking further information regarding the rule's use of the term "extraordinary circumstances." Commenters supporting automatic restoration of gun rights took differing views as to the stage at which restoration would be appropriate. Although some commenters supported automatic restoration for all prohibited individuals following release from prison or supervision, others preferred automatic restoration for subcategories of such persons, such as for nonviolent offenders only, or for persons who had been on release for a specified period of time. A smaller number of commenters specifically opposed automatic restoration for any group. Some commenters fell short of explicitly endorsing automatic restoration but argued that there should be a presumption in favor of restoration, either for persons who are not found to pose a danger to society, after the passage of a period of time, or based on specific criteria, like veteran or military status or state restoration of rights. Alternatively, at least one commenter proposed an expedited restoration process for persons with a military background or prior record of gun ownership.

Other commenters expressed their hope that the Department would use objective criteria, such as a point system, to evaluate applications, thereby

"prevent[ing] targeting" based on personal or political bias. At least one commenter, an academic organization studying gun violence, argued that, as part of the Attorney General's statutorily mandated dangerousness assessment, the Attorney General should consider "[d]ocumented acts or threats of violence; [d]ocumented alcohol or other substance misuse; and [v]iolations of restraining, protection, or no-contact orders." Others suggested that objective, criminologically studied criteria, such as drug testing, should inform the evaluation of each application. One commenter proposed a burden-shifting framework whereby applicants would generally have to demonstrate by clear and convincing evidence that granting relief would not be contrary to the public interest, but the government would also be able to create rebuttable presumptions that certain categories of people are dangerous.

Finally, many commenters sought clarity on how the Department would apply an "extraordinary circumstances" standard when determining whether an individual had overcome a presumptive disqualification. At least one critic opined that the existence of an "extraordinary circumstances" standard casts doubt upon the premise that persons with presumptively disqualifying convictions or statuses could ever receive relief: "This approach does not inspire confidence; the likelihood of being granted relief seems relatively low, which is a cause for concern and a clear indication that the process needs to be reevaluated." On the opposite end of the spectrum, some commenters worried that too many dangerous people would qualify for relief: "This introduces potentially dangerous and unacceptable ambiguity for applicants, for victims, and for the American people. The DOJ must publish, with particularity, what constitutes extraordinary circumstances that would be sufficient to overcome a presumptive disqualification." Many suggested evaluating the applications of presumptively disqualified persons according to a clear and convincing standard of proof, as opposed to evaluating the existence of "extraordinary circumstances." Others expressed concern that the definition of "extraordinary circumstances" would vary based on the whims of the political party in power. Finally, one anonymous commenter proposed the following language as a definition of "extraordinary circumstances": "[T]he Attorney General shall consider factors including, but not limited to: (i) whether the applicant has only a single violent

conviction; (ii) whether at least fifteen years have passed without further convictions; (iii) the applicant's age at the time of the offense; (iv) evidence of rehabilitation and community reintegration; and (v) whether credible information suggests the applicant poses an ongoing public safety risk. No single factor shall be dispositive, but together these considerations may constitute extraordinary circumstances."

Department Response: The Department appreciates the interest from the public in the evidentiary standards that the Attorney General will utilize in evaluating applications. The Department remains committed to a fair and consistent process that will enable the Attorney General to issue restorations to all applicants who qualify under the standard articulated in section 925(c), as implemented in this final rule.

As to the specific comments, consistent with the careful and measured rule set forth herein, the Department rejects automatic restoration of rights for any particular group, as such restoration would not adequately fulfill the Attorney General's statutory obligation to evaluate both the likelihood that an applicant will act in a manner dangerous to public safety and whether the granting of relief would be contrary to the public interest. Automatic restoration is inconsistent with the careful analysis that section 925(c) requires. Instead, the Department adopts the measured approach of this final rule, which will allow the Department to carefully review applications consistent with its statutory obligations in individual cases.

The Department disagrees that a separate, expedited review process for any category of persons should be implemented. Instead, the Department will use disclosures in the applications for relief and information learned from government partners to develop appropriate procedures and efficient methods to investigate the cases submitted to it. As explained in the preamble to the NPRM, some applications—such as those from persons who are prohibited under section 922(g)(1), meet all time requirements, and have only one prior nonviolent conviction—are likely to be processed relatively quickly given the straightforward nature of the analysis required. *See NPRM*, 90 FR at 34395–96. Through time and experience, the Department will identify further means to efficiently process applications and will adapt its processes throughout the life of this program to adjust for the additional data the Department receives and analyzes from its applicant pool.

Moreover, the Department notes that none of the commenters' proposals for expediting review of certain types of cases included research or data supporting the recommended prioritizations, meaning that the public provided no strong basis for implementing these proposals. The Department also believes that any formal prioritization process would likely be undermined by applicants who incorrectly identify themselves as qualifying for expedited review or who request exceptions so they may be prioritized. An expedited process therefore would create an unnecessary additional layer of review that may not ultimately benefit the population of people it would be intended to serve.

As to one commenter's proposal that a point system or other quantitative adjudication method would be appropriate, the Department declines to limit itself to one rigid methodology for decision-making before the restoration process has even begun. The Department is committed to developing an efficient and effective process that fulfills the goal of restoring rights to individuals who would not be likely to act in a manner dangerous to public safety and that guarantees any grants of relief would not be contrary to the public interest. To achieve this goal, the Department firmly believes that its review and decision-making methodology must be agile and adaptable based on experience learned throughout the implementation and execution of this new process and on data collected from the applicant pool. Adhering to an overly rigid formula for review and decision-making, particularly one devised at the inception of the program, would be contrary to that end.

Regarding comments that the Department should base its review upon additional, specific criteria not already proposed in the NPRM, such as assessing applicants' alcohol use and record of non-criminal violence, and requiring applicants to undergo drug testing, the Department agrees that those factors could assist in evaluating the likelihood that an applicant will not act in a manner dangerous to public safety and that granting relief would not be against the public interest. Although the rule does not require drug testing, it does include requirements that would address factors mentioned by commenters by requiring both the applicant and the applicant's character references to affirm under penalty of perjury that the applicant is not an unlawful drug user or alcohol abuser, *see* § 107.10(g)(13)(iii)(B) & (C), 107.10(g)(14)(ii) & (iii), and has neither

engaged in nor is likely to engage in violence, *see* § 107.10(g)(13)(F) & (G), 107.10(g)(14)(vi) & (vii). Additional requirements like drug or alcohol testing would be overly burdensome with limited additional benefit in most cases. Further, regarding the proposal that specific burdens of proof should apply to the Department's review at various stages and in various scenarios, the Department believes that implementing a burden-shifting framework would needlessly overcomplicate its review. The Department intends to develop internal guidelines to ensure consistency in its outcomes, while still maintaining flexibility.

Finally, the Department appreciates the desire for a pronouncement on the definition of "extraordinary circumstances." Unlike critics of its approach, the Department does not believe the use of "extraordinary circumstances" as a metric for granting relief to presumptively disqualified persons necessarily means that an inappropriately low number of persons will be granted such relief. To the contrary, the inclusion of a relief mechanism for those who have a presumptive disqualifier supports the likelihood that relief will be granted in appropriate instances, where individuals can demonstrate they are unlikely to act in a manner that endangers public safety and that granting relief is not contrary to the public interest. Conversely, the Department also does not believe that the existence of the extraordinary-circumstances provision broadly opens the door to firearm possession by those posing a danger to public safety. Imposing a presumption of disqualification based on a conviction for violent or dangerous conduct, a recent criminal conviction, continuing illegal or irresponsible conduct, or the lack of sufficiently persuasive information to support an applicant's claim that he or she no longer poses a risk despite possessing such factors recognizes that an individual with those characteristics will likely be unable to satisfy the Attorney General's statutory assessment of public safety and the public interest. The NPRM's inclusion of the narrow "extraordinary circumstances" exception, which contemplates that an applicant may be presumptively disqualified under circumstances that do not accurately reflect continuing dangerousness or risk to public safety, allows for a sufficient opportunity for an individual to overcome this presumption. *See* NPRM, 90 FR at 34396.

The Department declines to provide a rigid definition of "extraordinary

circumstances" to avoid unnecessarily cabining the Attorney General's discretion to provide relief where he assesses that it is appropriate. The very language of "extraordinary circumstances" implies unforeseen and unusual circumstances and retaining the Attorney General's statutory discretion to assess risk to public safety and whether relief would be contrary to the public interest is important for the Department. Nevertheless, the Department recognizes that certain common factors are likely to be present where extraordinary circumstances are found. Those factors relate to the circumstances of the offense underlying the disability, such as the relative seriousness of the offense, the age of the applicant at the time of the offense, the level of remorse and atonement shown for the offense, and the presence of an exceptionally long period of non-criminal conduct since the offense.

Further, the Department acknowledges that some individuals have been convicted of offenses that the final rule identifies as presumptively disqualifying but that may have been based on conduct that does not necessarily indicate ongoing dangerousness or risk to public safety. Examples may include individuals convicted of burglary whose underlying conduct involved an unarmed breaking and entering into an abandoned building such that a trespassing charge was an equally plausible outcome, or individuals convicted of possessing a firearm at a protected location who engaged in conduct no more extensive than mere possession and who were otherwise legally allowed to possess a firearm. The application process will provide ample opportunity for individuals to explain their past presumptively disqualifying convictions, to elaborate on the severity of the offense conduct, and to include reliable information that the conviction could plausibly have resulted in less serious and nonviolent charges. Department personnel will review whether these explanations are sufficient to overcome the presumptive disqualification and show that the applicant's criminal history does not necessarily indicate an ongoing propensity for violence.

C. Scope of Rule

Comments Received: Commenters who discussed the scope of the rule focused on two general propositions: either that (1) the relief offered by the rule should be expanded to all categories of disability or (2) the relief should be narrowed based on certain criteria. In the first camp, commenters

suggested that individuals with disqualifications resulting from misdemeanors or from conduct that did not result in a conviction should also be eligible for restoration; commenters cited isolated instances in which their firearms rights were restricted based on such conduct because of, *e.g.*, the terms of a non-prosecution agreement: “I have a non-violent case that was dismissed, but the dismissal had a condition that I lost my rights to own a firearm in the state in which I resided at the time” or “I’m pleading with the DOJ DEPT to please make this law/rule affect state non violent/misdemeanors as well.” In the second camp, commenters stated that individuals whose disability is predicated on military discharge should be evaluated in the same manner as individuals whose disabilities are based on non-military conduct. For example: “[D]ishonorable discharges . . . should be evaluated using the same criteria as their parallel offenses in civilian law.” Similarly, some commenters believed that relief should be available only to non-violent offenders or people convicted of lesser violent offenses: “ALL Citizens shall be able to own and use guns unless they have been convicted of a violent felony.” At least one commenter suggested that relief be denied to anyone with multiple prior convictions. A few commenters proposed that the rule provide relief to possess or otherwise handle only certain types of firearms in lieu of full firearms rights restoration. One commenter opined that prior foreign convictions for crimes other than terrorism, human trafficking, espionage, treason, and large-scale drug trafficking should be excluded as disabling predicate convictions, while others opined that foreign convictions have no place within the scope of review for section 925(c) relief.

Department Response: The Department appreciates the thoughtful comments regarding the scope of the rule. In light of those comments, the Department has made minor adjustments to the rule to clarify the procedures regarding military discharges and the necessary paperwork an applicant with a military discharge or conviction disability must provide. The Department has also expanded the definitions of disabling offenses to include reference to the Uniform Code of Military Justice (“UCMJ”), making it clear that persons who committed offenses under the UCMJ also are subject to presumptive disqualifications. Finally, the Department has clarified in the final rule’s definitions that dishonorable discharges include

sentences of dismissal for commissioned officers, cadets, and midshipmen.

These changes better reflect the important point that the federal firearms disability for a dishonorable discharge, section 922(g)(6), is a basis for disqualification separate from the underlying offense that precipitated the discharge, which may be a disqualification under section 922(g)(1) or (9). Both the discharge and the underlying offense are independently disabling, and applicants who have both a dishonorable discharge and a disabling conviction must disclose both disabilities in their application. Notably, however, not all military convictions that are disabling lead to dishonorable discharges, so individuals with a disabling military conviction, even without a dishonorable discharge, also would need to apply for relief.

Regarding some commenters’ inquiries about state misdemeanors that are not domestic violence offenses, as well as clauses in state non-prosecution agreements, the Department believes that neither scenario described by commenters would impact a person’s federal firearms rights because neither falls within the scope of section 922(g); thus, the Department did not make any adjustment to its relief process with respect to these categories of applicants. Similarly, in reference to the commenter who asked that foreign convictions be excluded as disabling predicates, the Supreme Court already has so held, meaning that individuals with exclusively foreign convictions are not federally prohibited from owning firearms.¹⁹ The final rule need not provide relief to individuals who are not federally prohibited from owning firearms.

The Department has, however, amended the final rule to require collection of information regarding foreign convictions, foreign mental

health adjudications, foreign military discharges, and foreign expungements. If an applicant has such information to share, he or she will be asked to produce these materials, with accompanying translations as necessary. The information collected here will not create a presumptive disqualification for any applicant but instead will help inform the Attorney General’s overall decision regarding whether restoring the applicant’s firearms rights is likely to pose a danger to public safety or would be contrary to the public interest. To fulfill the Attorney General’s obligations under the statute, and to ensure that his decisions are made with a broad knowledge base, the Department will collect and review such information as one facet of its application review. Also, to address potential concerns with various foreign judicial systems and the quality of due process in those regimes, the applicant will, of course, have the opportunity to provide information explaining or mitigating the foreign materials.

The Department broadly rejects suggestions that it should allow only a subset of individuals with criminal convictions to apply for relief from disability, as was preferred by some commenters. Instead, the Department favors the scheme of this final rule, which allows applications from individuals with prior convictions of any nature but creates a high bar to restoration for those whose past conviction was for an offense that makes it unlikely they will be able to demonstrate that they will not act in a manner dangerous to public safety and that relief would not be against the public interest. This measured approach appropriately helps protect the Second Amendment rights of all citizens while also promoting public safety.

The Department also rejects suggestions to restore rights only as to certain types or kinds of firearms as an unworkable and unnecessarily complex manner by which to administer relief. If an individual is deemed an appropriate candidate for the restoration of federal firearms rights, then that person is deemed federally authorized to possess all lawful types of firearms. An incremental approach to federal firearms rights would place a significant additional burden on government entities tasked with documenting, recording, and issuing guidance on the level of firearm-related activities that any individual could engage in and complicate efforts by state law enforcement officials, the Federal Bureau of Investigation (“FBI”), and ATF to administer and enforce federal firearms laws, for little if any benefit.

¹⁹ *Small v. United States*, 544 U.S. 385 (2005) (holding that Congress did not intend foreign convictions to serve as predicates for prosecution under section 922(g)). Although a foreign conviction is not disabling under section 922(g), this final rule requires submission of information on certain foreign conduct that may bear on whether a person with a section 922(g) disability is eligible for relief under section 925(c). Foreign conduct, in other words, even if not initially disabling, is still probative of a person’s character and hence whether a disqualified person can satisfy the statutory standard in section 925(c). Indeed, the Court in *Small* reached its result based primarily on the presumption against extraterritoriality that applies when interpreting statutes, 544 U.S. at 388—not any general notion that foreign conduct is irrelevant in assessing a person’s character. *Accord id.* at 394 (agreeing that “one convicted of a serious crime abroad may well be as dangerous as one convicted of a similar crime in the United States”).

D. Public Safety

Comments Received: Commenters were split between those opposing the rule based on their belief that any restoration process poses a danger to public safety and those who believed that the rule—as initially proposed or with minor adjustments—could help to ensure public safety. Those opposing the rule on public safety grounds generally believed that any relaxation of firearms restrictions would be dangerous. A commenter stated, “We need strong rules and oversight to protect our communities and keep guns out of dangerous hands. Returning guns to people who shouldn’t have them is not a good policy. Period.” Domestic violence and potential threats to children were commonly cited concerns: “Please do not do ANYTHING to make it easier for people who have been adjudged to have committed domestic violence to own a firearm. Too many people have died already!” and “Guns are the #1 killer of our children and teens. There are 47,000 gun deaths a year. We need strong rules, not weaker ones.” Mental health concerns also arose frequently in commenters’ objections: “I vehemently oppose any weakening of the review process for restoring gun rights. This process is meant to protect us all. We need strong rules and laws to keep guns away from abusers and out of the hands of unstable people and from those deemed a threat.” Some commenters expressed concern that felons and others who have lost their firearms rights generally cannot be trusted, asserting that “[f]elons, regardless of violence or not, should not be given back their rights to own/possess/use firearms or deadly weapons. They have already shown a serious lack of judgment and they will likely be more inclined to use a firearm for bad.”

By contrast, some commenters believed that public safety could be protected, or even improved, by a restoration process, generally opining that an armed society is a civil society. Several commenters pointed to their belief that restoring firearms rights to certain types of people is consistent with public safety, expressing sentiments such as: “[r]esearch supports the idea that nonviolent offenders, especially after many years without further legal trouble, are no more likely to commit gun violence than the average citizen.” One commenter pointed to successful state level rights restoration programs as evidencing the likely effectiveness of a federal program: “Many states have implemented successful rights restoration programs

for non-violent and rehabilitated individuals, and these programs have not led to increased firearm-related violence. This demonstrates that thoughtful, individualized restoration is not only feasible but effective.” One domestic abuse survivor stated: “As a woman who has been in a previous domestic violent abusive relationship, I strongly believe in bearing arms to protect our family I have had encounters where my ex would harass me and my husband. My husband is our protector and his non violent crime is the only thing holding us back from being able to have any guns in our home for protection purposes.”

Some commenters thought that restoration would not pose a public safety risk based on their belief that people can change, stating “I believe that individuals who have demonstrated a commitment to positive change, lived responsibly, and proven themselves to be nonviolent and no threat to society deserve an opportunity for restoration.” One commenter expressed his opinion that only law-abiding or reformed citizens would seek restoration through this process: “Real criminals don’t care about gun rights, they don’t apply to restore them! Only law abiding citizens care about rights and only law abiding citizens will apply to get their rights back!” Some commenters argued that firearms restoration promotes rehabilitation and improves public safety: “A man, or woman, must have an achievable goal If there was a real plan of action, a true process that could be implemented guaranteeing an individual would have [his or her] second amendment rights, . . . I would guarantee the number of repeat offenders would decrease substantially.”

A minority of commenters who believed a restoration process is consistent with public safety suggested additional provisions be added to the final rule. One commenter asked for additional research before a process is implemented, and other commenters proposed expanding presumptive disqualifiers or otherwise requiring greater certainty that the applicant is not a threat to society before granting relief. Finally, some commenters opined that public safety requires a stringent restoration process that includes elements like review by expert panels and extensive background checks.

Department Response: The Department strongly agrees with commenters that public safety is a paramount consideration in the creation and implementation of the rights restoration process. Satisfying the statutory requirement that any

restoration be consistent with public safety and the public interest is the Department’s primary goal. The Department strongly disagrees with some commenters’ conclusion that the mere existence of a restoration process is a danger to the public or that all individuals prohibited under section 922(g)(1) necessarily pose an ongoing danger to the public even long after completing their sentences. Congress also clearly did not share that conclusion, as evidenced by the inclusion of section 925(c) in the GCA.²⁰ Instead, as set forth in the final rule, the best way to ensure public safety is by creating a rigorous restoration process that requires a background investigation, asks for full and candid disclosure of convictions and activities that are linked to dangerousness and firearms misuse, and provides relief only to those individuals who satisfy the statutory standard.

E. Benefits of the Rule

Comments Received: Many commenters who supported the rule touted its benefits. They heralded it as a bulwark against government overreach and as a means to ensure a “well-regulated militia,” consistent with the Second Amendment. Such commenters believed that this restoration process would help to safeguard self-defense rights; protect families, homes, and property; and help individuals carry on family traditions of hunting and engaging in other recreational firearms sports. Commenters further observed that restoring persons’ firearms rights could expand their employment opportunities in areas such as law enforcement, private security, and commercial services. A handful of commenters highlighted the need to carry firearms to protect livestock and domestic animals from predators, tying

²⁰ The Department does not believe that the appropriations rider discussed in section III.A of this preamble changes this conclusion. As noted, the legislative record suggests that Congress enacted the appropriations rider, in part, because it viewed the restoration rights process as a diversion from ATF’s duties related to investigating violent and dangerous crime rather than because it saw the process itself as fundamentally dangerous or inappropriate when carried out by the Attorney General, as section 925(c) itself contemplates. In addition, the fact that Congress chose to prevent implementation of the process by ATF through time-limited appropriations riders provides insight into congressional intent. Had Congress concluded that section 925(c) was indeed an irredeemably dangerous threat to public safety, it could have amended the GCA to remove section 925(c) entirely. The fact that Congress instead chose simply to limit the appropriations available to implement section 925(c) on a year-to-year basis suggests that Congress concluded that section 925(c) was generally appropriate, but that a new process needed to be developed to implement it.

the inability to possess firearms with a loss of income due to the death of livestock.

Commenters also highlighted the cultural and social importance of recreational activities, noting that in many areas, hunting and recreational firearms sports are “cultural tradition[s]” or family pastimes. Commenters with firearms disabilities noted their loss of social engagement since being unable to attend group outings such as trophy hunts, shooting-sports events, and hunting camps. Some commenters lamented that a felony conviction complicates the ability of family members and roommates without their own convictions to lawfully possess firearms in shared homes, effectively stripping firearms rights from some people without disabilities. A few comments identified the benefit of possessing family heirlooms and antique firearms. More than one commenter cited the desire to possess a gun collection as a factor in support of the restoration of firearms rights, with one in particular noting that his relatives are avid gun collectors and that it “breaks both of their hearts” knowing they cannot pass on the collection to the commenter, who is prohibited.

Some commenters expressed their preferences for certain groups to receive restoration of their firearms rights, noting that a rule such as this one could benefit or prefer, for instance, those with active security clearances and veterans who have served their country and already have significant firearms training. Several commenters opined that restored firearms ownership could support a felon’s reintegration into the community and reduce potential recidivism, expressing frustration over the lasting effects of felony convictions, which one commenter described as a “life sentence.” Several commenters expressed gratitude that this final rule provides an alternative and less burdensome process than the federal pardon process, which has practically functioned as the only means of restoring federal firearms rights for individuals for over 30 years. Finally, a few commenters noted the positive impact that the opportunity for restoration will have on marginalized communities, stating that persons belonging to “communities of color, . . . are more likely to be convicted of non-violent drug felonies. The result is unequal access to constitutional rights and compounded systemic injustice.”

Department Response: The Department appreciates the many positive comments regarding this rule and agrees that many of the benefits articulated by commenters support the

necessity of establishing this new restoration process. The Department remains committed to its goal of restoring federal firearms rights to the many individuals who qualify for relief, consistent with its commitment to public safety and the public interest. Although the Department declines to give preferential treatment to any particular group, the fact that an individual may, for example, have significant firearms training or hold a security clearance is a factor that the Attorney General may consider in his holistic review of the individual’s case, and the Department acknowledges that the rule is likely to benefit many deserving individuals and groups.

F. Permanent Presumptive Disqualifications

Comments Received: Well over 1,000 commenters offered a range of opinions on the NPRM’s presumptive disqualification provisions. Comments referenced both the general idea of presumptive disqualification as well as the particular categories of offenses identified for presumptive disqualification.

Those who supported some manner of presumptive disqualification agreed that certain violent acts should presumptively disqualify an applicant from firearm relief. Commenters noted that such presumptions echo the intent of the GCA itself, which created broad categories of prohibited persons “to proactively prevent potential harm by keeping firearms out of the hands of those considered dangerous or at higher risk of committing violence.” Some commenters further opined that the NPRM’s methodology allows the restoration process to focus on “plausible applicants” instead of those who have committed crimes with high recidivism rates or that are violent by nature. Many commenters were encouraged by the inclusion of offenses such as misdemeanor domestic violence crimes in the presumptively-disqualified-for-a-term-of-years category, arguing that certain felonious or dangerous acts can result in misdemeanor convictions but still indicate present danger. These commenters also pointed out that the rule’s establishment of time-limited presumptive disqualifications for certain offenses helps to dispel fears of an insurmountable lifetime ban on firearm possession for all serious offenders. Some commenters noted their preference for the proposed system, agreeing with the Department that the prior system for evaluating section 925(c) applications resulted in the restoration of gun rights to some violent

felons who remained threats to the public. Others wrote that certain offenses and individual actions should be afforded greater weight in the presumptive disqualification analysis due to their predictive and violent nature. Commenters also argued that the presumptive disqualifiers would help to constrain the Attorney General’s discretion and ensure greater consistency in outcomes, expressing concern that, were an individualized review method employed without such parameters, it would lead to inconsistent decisions on similar fact patterns.

Opponents of the presumptive disqualifiers argued the opposite. They claimed that no constitutional basis exists for such a scheme, that the presumptions exceed the authorizing statute, and that presumptive disqualifiers violate recent Supreme Court decisions such as *Heller* and *Bruen* that, according to the commenters, favor individual, case-by-case analyses. Critics said the NPRM overemphasized a desire to conserve resources and did so to the detriment of individual constitutional rights. They pointed out that the presumptions failed to factor in juvenile indiscretions; prosecutorial overreach; individuals accepting plea bargains to protect against harsher sentences; innocence; and self-defense. Critics contended that the presumptions were overbroad and arbitrary, would discourage applications, and could be politically weaponized. A few argued that the only appropriate consideration should be the applicant’s present, rather than past, dangerousness, and that automatic restoration should occur when the person has completed their sentence. Numerous commenters took issue with categorical presumptive disqualifications, instead favoring individualized review in every case. Others noted that the NPRM itself recognized concerns associated with the inclusion of presumptions by stating that “Congress, in enacting section 925(c), recognized that a subset of persons subject to the Gun Control Act may be able to make an individualized showing both that they ‘will not be likely to act in a manner dangerous to public safety’ if allowed to possess firearms and that granting relief from federal firearm disabilities ‘would not be contrary to the public interest.’” See NPRM, 90 FR at 34395 (citation omitted).

Commenters further worried that the weight afforded to a presumptive disqualifier would unfairly stifle evidence from an applicant who demonstrates rehabilitation. They

believed this would have a chilling effect on applications. Finally, others suggested that the NPRM's proposed method of utilizing presumptive disqualifications may contradict the recent, pre-NPRM restoration actions taken by the Attorney General.²¹

Department Response: The Department appreciates the thoughtful comments both for and against the presumptive disqualification scheme. The variety of opinions received underscores the need for a thoughtful, measured, and careful approach in the implementation of this application process. As previously addressed, the Department's presumptive disqualification method is authorized by section 925(c)'s statutory direction to the Attorney General to create a restoration process that aligns with public safety and the public interest. Further, ATF's unpredictable prior process, and Congress's dissatisfaction with it, strongly indicate that the Department should devise a system of review that provides consistent guidelines for when restoring firearms rights would be appropriate. The presumptive disqualification method achieves that goal.

First, presumptive disqualifications are entirely consistent with Congress's disarmament scheme under the GCA, as well as with the Second Amendment. The Department's presumptive disqualifiers are necessary to ensure the restoration process is functional and efficient, while also satisfying the statutory objective of protecting public safety and the public interest. Moreover, the presumptive disqualifiers hew closely to assessments of dangerousness and propensity for recidivism that the courts have said fit within the historical traditions of the United States regarding gun prohibitions.²² For these reasons, the Department disagrees with the concerns raised by some commenters that the presumptions in the final rule exceed the authorizing statute or violate

the Second Amendment. As noted above, Second Amendment rights are not absolute, and Congress may remove those rights from persons who pose a danger to themselves or others. Additionally, courts have repeatedly found that certain types of crimes and the individuals convicted of committing those crimes can summarily be found dangerous.²³ And, to the extent that some commenters may nonetheless be concerned that this final rule jeopardizes Second Amendment rights, the Department notes that the presumptions of disqualification are only that—presumptions. Applicants will receive an individualized determination of whether they have established extraordinary circumstances rebutting an applicable presumption. By incorporating an individualized determination, this rule goes beyond what courts have deemed required in their Second Amendment jurisprudence. *See, e.g., United States v. Vizcaino-Peguero*, 175 F.4th 34, 47 (1st Cir. 2026) (Second Amendment does not require “an individualized finding of dangerousness to disarm a person”).

Second, the Department notes that a presumptive disqualification scheme allows the government to conserve its limited resources to prioritize individuals who are most likely to qualify for relief, *see* NPRM, 90 FR at 34396, while still conducting individualized assessments.

Accordingly, the Department continues to adopt a general presumptive disqualification scheme in its final rule.

Finally, the Department believes that, contrary to assertions by some commenters regarding the recent restorations granted by the Attorney General, all restoration decisions the Attorney General has made are consistent with both the Attorney General's statutory obligations and the criteria cited in this final rule. The commenter in particular referenced the restoration of rights for an individual with a prior misdemeanor domestic violence conviction. The commenter failed to recognize, however, that the NPRM proposed that misdemeanor domestic violence offenders would be presumptively disqualified from relief for only a 10-year period. Given the time elapsed since the domestic violence conviction of the individual in question, the former Attorney General's decision would have been consistent with the presumptive disqualifications proposed in the NPRM and adopted in this final rule, had those presumptions been in place at the time of the former Attorney General's decision.

1. Expanding the Number of Presumptive Disqualifiers

Comments Received: In addition to providing views on the general appropriateness of a presumptive disqualification scheme, many commenters stated that the list of presumptive disqualifiers should be expanded. These commenters focused largely on three categories of offenses or conduct. The first category was felony hate crimes. One advocacy group dedicated to preventing gun violence reported that hate crimes have doubled in the last 10 years, have been significantly underreported, have targeted minority populations, and have often included the use of a firearm.²⁴ This group further argued that, unlike other crimes, hate crimes pose a danger to large swaths of the population; carry a risk of reoffending that is not shown to decline as the perpetrator ages; and, over 60 percent of the time, are committed by perpetrators who have engaged in other criminal activity.²⁵

The next proposed additional disqualifier was offenses for driving under the influence (“DUI”) and similar alcohol-related offenses and conduct. Supporters of this addition pointed to studies and statistics demonstrating a link between DUI and similar alcohol-related offenses and an increased risk of gun violence.²⁶

Next, a number of commenters proposed moving all domestic violence convictions into a permanent, rather than a time-limited, presumptive disqualification. At least one advocacy group noted that the risk of perpetrating domestic violence crimes does not

²⁴ Commenter cited: USAFacts, *Are Hate Crimes on the Rise?* (Sept. 5, 2025), <https://usafacts.org/articles/which-groups-have-experienced-an-increase-in-hate-crimes/>; Grace Kena & Alexandra Thompson, U.S. Dep't of Just., Bureau of Just. Stats., *Hate Crime Victimization, 2005–2019* (Sept. 2021), <https://bjs.ojp.gov/media/64996/download>.

²⁵ Commenter cited: Nat'l Consortium for the Study of Terrorism, *Motivations and Characteristics of Hate Crime Offenders* (Oct. 2020), https://www.start.umd.edu/pubs/START_BIAS_MotivationsCharacteristicsOfHateCrimeOffenders_Oct2020.pdf.

²⁶ Commenter cited: Hannah Laqueur et al., *Alcohol Related Crimes and Risk of Arrest for Intimate Partner Violence Among California Handgun Purchasers*, 38:10 Health Affairs 1719, 1725 (Oct. 2019), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2019.00608> (“This study, along with our forthcoming work that shows an association of comparable magnitude between a preexisting DUI conviction and risk for subsequent firearm-related crime and violent crime broadly, contributes to the evidence base for policies intended to regulate firearm ownership among people with alcohol use problems.” (footnote omitted)); Ellicott C. Matthey et al., *Assessing Links Between Alcohol Exposure and Firearm Violence: A Scoping Review Update*, 45:1 Alcohol Resch. 2 (Jan. 10, 2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11737877/>.

²¹ The commenter specifically cited the restoration of federal firearms rights to recipients on March 31, 2025. *See* Granting of Relief; Federal Firearms Privileges, 90 FR 17835 (Apr. 29, 2025). The commenter noted that, because of the public profile of one of the recipients, it was well known that this person was convicted in 2011 of a domestic violence offense—an offense that falls within a category of crimes that is presumptively disqualified—and argued that the Attorney General's decision to grant relief notwithstanding that conviction demonstrated that presumptive disqualifications are too “backward-looking” and do not appropriately account for the present circumstances of applicants. The Department understands this comment to suggest that procedures for implementing section 925(c) should place more weight on an applicant's current status and very recent conduct, and less weight on any conduct that occurred several years ago.

²² *See supra* note 9.

²³ *See supra* note 10.

diminish with age, unlike the risk of committing other violent crimes.²⁷ Other commenters provided supporting statistics regarding the use of firearms in the commission of domestic violence, noting that “41% of American women and 26% of men” have been victimized by an intimate partner; that “more than half” of intimate partner homicides are committed with firearms; and that “more than 70 American women” per month are shot and killed by their intimate partners.²⁸

Commenters also suggested “categorically” denying applications for relief submitted by repeat domestic violence offenders. These commenters proposed that, at a minimum, the individualized review of applications involving domestic violence cases should be completed by domestic violence experts and should result in the disqualification of those who engaged in aggravated conduct, such as violating protection orders, stalking, or strangulation. These commenters also proposed that the review of these applications should include review of police reports, victim testimony, and any civil protection orders imposed against the applicant.

These groups also encouraged reliance on expert panels and victim input when making any decision to rearm domestic violence offenders. Finally, these groups provided a list of

actions that they believed should be considered an absolute bar to an individual receiving restoration of gun rights: repeated convictions for domestic violence offenses or for domestic violence in combination with other violent offenses; violation of a domestic violence protection order; strangling a victim; threatening a victim with a weapon; and sexually assaulting a victim. Commenters opined that research shows individuals engaging in these types of aggravated conduct pose the greatest ongoing threat of intimate partner homicide and consequently would never be able to satisfy the statutory public safety and public interest considerations.

In addition to commenting on hate crimes, DUI offenses, and domestic violence offenses, commenters suggested three additional categories of disqualifying conduct. The first category was for individuals with a high risk of suicide: referencing the public safety risk inherent in suicide, suicide attempts, and suicidal ideation—including both the harm to the individual seeking to commit suicide and harm to others stemming from murder-suicides and active shooter situations—commenters opined that those who pose a risk of suicide should be permanently presumptively disqualified from gun possession. These commenters pointed out that although violent recidivism decreases with age, suicide rates increase with age for certain populations.²⁹ The second category, suggested by a joint letter from 16 states’ attorneys general, was for individuals who are prohibited under section 922(g)(7) based on renunciation of citizenship. The attorneys general could “imagine no legitimate reason why anyone who has voluntarily given up the honors and responsibilities of American citizenship should be rewarded with restoration of firearm rights.” The third category, also suggested by the 16 states’ attorneys general, was to render individuals who are subject to pretrial diversion or a treatment program in lieu of a felony conviction presumptively disqualified.

Department Response: The categories of serious offenses that qualify for presumptive disqualification are of significant importance in the implementation of a viable and effective

section 925(c) application process. The NPRM set forth a list of offense types that, by their nature, carry a presumption that the offender poses a risk to public safety. This list was limited to violent offenses drawn from “crime of violence” definitions, other criminal offenses closely associated with violence, and offenses where the offenders statistically demonstrate high recidivism rates. In each category, the offender’s ongoing dangerousness can be legitimately presumed.

Hate Crimes

The Department greatly appreciates commenters’ thoughts regarding potential additional offenses to include on the list of presumptive disqualifications. Regarding commenters’ suggestions that hate crimes should be added to the list of presumptive disqualifiers, the Department declines to adopt this suggestion. The final rule already presumptively disqualifies perpetrators of most violent acts that could serve as an underlying offense in a hate-crime prosecution. For example, the FBI defines a hate crime “as a criminal offense against a person or property motivated in whole or in part by an offender’s bias against” the victim’s identifying characteristics, such as race, religion, or ethnicity.³⁰ The FBI collects data from states and localities on the types of offenses committed during hate crimes, identifying murder and manslaughter, rape, aggravated assault, intimidation, human trafficking or commercial sex acts, robbery, burglary, and arson as substantive offenses frequently involved in hate crime prosecutions.³¹ Each of the foregoing categories of offenses is already presumptively disqualifying under the final rule.

The Department is cognizant that the list above does not capture every potential underlying offense that could form the basis of a state-designated hate crime. However, the Department seeks to avoid sweeping into a presumptive disqualification conduct that does not involve violence or ongoing risk to the public. Expanding the presumptive disqualification list to include all hate-crime-related conduct (as suggested by commenters) substantially increases the likelihood that conduct that is non-violent could be subject to a permanent presumptive disqualification. Inasmuch

²⁷ Commenter cited: Matthew R. Durose et al., U.S. Dep’t of Just., Bureau of Just. Stats., *Family Violence Statistics: Including Statistics on Strangers and Acquaintances* 1 (June 2005), <https://bjs.ojp.gov/content/pub/pdf/fvs10.pdf> (finding that over 62 percent of domestic violence offenders were over the age of 30); Texas Council on Family Violence, *Honoring Texas Victims: Family Violence Fatalities in 2023* 10 (2023), <https://tcfv.org/wp-content/uploads/2023-HTV-Report-Jan-2025-UPdate.pdf> (noting that, in 2023, most intimate partner homicides in Texas were committed by men over the age of 40).

²⁸ Commenter cited: Ruth W. Leemis et al., Ctrs. for Disease Control & Prevention, *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence* (Oct. 2022), https://www.cdc.gov/nisvs/documentation/nisvsreportonip_2022.pdf?; Avanti Adhia et al., *Nonfatal Use of Firearms in Intimate Partner Violence: Results of a National Survey*, 147 *Preventive Medicine* (June 2021), <https://doi.org/10.1016/j.ypmed.2021.106500>; L.E. Stalzman et al., *Weapon Involvement and Injury Outcomes in Family and Intimate Assaults*, 267:22 *JAMA* 3043 (June 1992), <https://pubmed.ncbi.nlm.nih.gov/1588718/>; Emma E. Fridel & James Alen Fox, *Gender Differences in Patterns and Trends in U.S. Homicide, 1976–2017*, 6:1 *Violence and Gender* 27 (Mar. 2019), <https://doi.org/10.1089/vio.2019.0005>; Neil Websdale, Kathleen Ferraro & Steven D. Barger, *The Domestic Violence Fatality Review Clearinghouse: Introduction to a New National Data System with a Focus on Firearms*, 6 *Injury Epidemiology* (2019), <https://doi.org/10.1186/s40621-019-0182-2>; FBI, *FBI Crime Data Explorer: Expanded Homicides Reported in the United States*, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/shr> (last visited July 4, 2026).

²⁹ Commenter cited: Olivia Goldhill, *An Overlooked Demographic has the Highest Suicide Risk—and it’s Been Rising*, STAT (July 17, 2025), <https://www.statnews.com/2025/07/17/suicide-rates-rising-older-men-cdc-data-say/>; Ajit Shah, *The Relationship Between Suicide Rates and Age: An Analysis of Multinational Data from the World Health Organization*, 19 *Int’l Psych.* 1141 (Dec. 2007), <https://www.sciencedirect.com/science/article/pii/S104161022405169X>.

³⁰ FBI, *What We Investigate: Hate Crimes*, <https://www.fbi.gov/investigate/civil-rights/hate-crimes> (last visited July 4, 2026).

³¹ FBI, *FBI Crime Data Explorer*, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/downloads> (last visited July 4, 2026) (providing downloadable statistics for hate crime information).

as an individual applicant's prior conviction(s) involve(s) conduct that does not fall into the presumptive disqualifications but that the Attorney General finds indicates that the applicant is likely to act in a manner dangerous to public safety and that granting relief would be contrary to the public interest, then the Attorney General would deny that application after reviewing the relevant materials. Accordingly, the final rule's list of presumptively disqualifying offenses continues to focus on identifying past convictions that implicate public safety and ongoing risk to the public.

Alcohol-Related Offenses

Similarly, the Department declines to adopt the suggestions of commenters that alcohol-related offenses or conduct should be presumptively disqualifying. Those convicted of alcohol-related offenses are not a category of persons who would necessarily have a federal firearms disability absent other factors. Further, alcohol abuse is not consistently documented in the way firearms disabilities pursuant to section 922(g) would be, including because individuals who have engaged in alcohol-abuse conduct that does not rise to criminal levels may have no criminal history at all. Without consistent and reliable documentation that the Department can utilize to establish that the applicant has engaged in alcohol-abuse-related conduct, the Department would struggle to administer a presumptive disqualification on that basis. To prevent the restoration of firearms rights for those individuals with ongoing substance abuse problems, the final rule requires individual applicants, as well as their character references, to affirm that the applicant does not regularly abuse alcohol or other intoxicants. See 28 CFR 107.10(g)(13)(iii)(C), (14)(iii). This requirement will allow the Attorney General to assess an applicant's substance abuse and help ensure that individuals with such problems cannot use firearms in a way that endangers public safety. Further, nothing in the final rule prevents the Attorney General from determining on a case-by-case basis that the individual circumstances of an applicant's prior history of alcohol-related offenses or alcohol-abuse conduct indicate that the applicant may be likely to pose a danger to public safety or that granting relief is against the public interest.

Aggravated Domestic Violence Offenses

The Department also appreciates the concerns expressed by domestic violence victim advocacy groups,

particularly in their identification of aggravated conduct that may occur in domestic violence cases. The Department agrees that the examples of aggravated conduct cited by commenters, such as strangulation or multiple domestic violence incidents, are serious crimes. The Department also believes that the final rule already provides sufficient safeguards to ensure that firearms rights are not restored to applicants who have engaged in the aggravated conduct identified by commenters. As an initial matter, the final rule unequivocally categorizes any felony-level domestic violence conduct as presumptively disqualifying. The Department believes that most of the aggravated conduct cited by commenters would be felony-level conduct that is likely to result in felony-level convictions;³² accordingly, under the final rule, individuals with such convictions will already be presumptively disqualified on a permanent basis.

In addition, the final rule addresses in a few key ways the possibility that some aggravated conduct may have resulted in only misdemeanor charges. First, the rule creates a presumptive 10-year disqualification for all misdemeanor domestic violence offenses. 28 CFR 107.50(b)(2)(i). Second, it restarts the 10 years of presumptive disqualification for anyone with a prior domestic violence conviction who incurs an additional arrest for a domestic violence or other violence-related offense within 10 years after completion of a domestic violence sentence. 28 CFR 107.50(b)(2)(ii)–(iii). Third, the final rule adds a five-year presumptive denial for any individual convicted of certain misdemeanor violent offenses that are not domestic-violence related. 28 CFR 107.50(b)(4). Finally, even in the absence of a presumptive denial or after the expiration of a presumptive denial period, the rule allows the Attorney General to assess the conduct underlying any offense. 28 CFR 107.10(b). Thus, if a misdemeanor conviction included felony-level conduct like strangulation or sexual assault, the Attorney General could review the substance of that conduct and find that the individual who engaged in that conduct should not receive restoration of federal firearms

rights, regardless of whether a presumptive disqualification is in effect.

Moreover, the final rule allows the Attorney General's review to extend beyond convictions to "charges against the applicant that were dismissed in exchange for a guilty plea," 28 CFR 107.20(a)(3); "arrests, regardless of whether they resulted in criminal charges," 28 CFR 107.20(a)(1); "restraining or protection orders, regardless of whether that behavior related to an arrest," 28 CFR 107.20(a)(7), and "threats or threatening behavior, regardless of whether that behavior resulted in criminal charges," 28 CFR 107.20(a)(8). This wide latitude of review should mitigate concerns that individuals who engaged in aggravated conduct and pose an ongoing danger to society will have their firearms rights restored, while still not foreclosing the possibility that an applicant could overcome any applicable presumption.

Suicide Risk

The Department is cognizant of the troubling connection between suicide risk and firearms usage but declines to specifically presumptively disqualify individuals with a history of suicide attempts or suicidal ideation, as proposed by commenters. Those with past suicide attempts or ongoing suicidal ideation do not necessarily have a history of criminal conduct and do not comprise a category of persons who would necessarily have a federal firearms disability absent other factors. Moreover, suicide-related conduct, such as suicidal ideation or attempt, is not necessarily consistently documented in the same way as conduct giving rise to firearms disabilities pursuant to section 922(g), and thus the Department would have difficulty identifying evidence that would appropriately establish suicide-related conduct consistently across applications. Inasmuch as suicide-related mental states overlap with a mental health prohibitor from which an individual applicant may be seeking relief, then suicidal ideation or attempts would be addressed in the context of relief from that particular prohibitor. However, to capture individual applicants where there is no such overlap, the final rule has revised the affirmations required of applicants and their character references to specifically mandate that they identify suicide risk. See 28 CFR 107.10(g)(13)(iii)(F), (14)(vi). Such a requirement cannot substitute for the record evidence that, as just explained, is often lacking in the context of suicide-related conduct, but these changes should help to allay commenters' concerns in this regard.

³² See e.g., U.S. Dep't of Just., U.S. Attorney's Off. for the District of Columbia, *Sex Offense and Domestic Violence Section*, <https://www.justice.gov/usao-dc/sex-offense-and-domestic-violence-section> (last visited July 4, 2026) (describing felony level domestic violence prosecutions as those involving "shootings, stabbings, strangulation, kidnapping, arson, chronic abuse over significant periods of time, and/or serious bodily injury").

Renounced Citizenship

As to the request to add renounced citizenship to the list of presumptive disqualifiers, the commenter identified no specific public safety rationale for doing so, and the Department has not independently identified one. Nor did the commenter identify any reason that restoration for this category of applicants would necessarily be “contrary to the public interest,” 18 U.S.C. 925(c), beyond a vague and unexplained notion that individuals who renounce their citizenship ought not to be allowed to benefit from the ability to receive less unfavorable treatment than other prohibited persons.

Pretrial Diversion

Finally, as to the request to presumptively disqualify those individuals under some form of a pretrial diversion program, the Department agrees that pretrial diversion and similar programs are frequently used to resolve criminal adjudications in state court and often require fact-finding or admissions of guilt similar to criminal convictions, yet do not trigger an additional prohibition under section 922(g). Because state courts use such programs so frequently, failing to address them in the final rule could leave many individuals uncertain about any presumptions that may apply to their applications. The Department has accordingly amended the final rule at § 107.50(c)(3) to include specific provisions related to such programs.

2. Reducing the Number of Presumptive Disqualifiers

Comments Received: Many commenters argued that, even if a presumptive disqualification scheme is employed, some of the proposed presumptive disqualifiers should be removed. Multiple commenters expressed the opinion that sex offenders are not inherently violent and that sex-offender registration should therefore be removed from the list. They argued that presumptively disqualifying everyone on a sex-offender registration system is an inappropriate blanket ban because the system does not equate to an “assessment of ongoing dangerousness” but instead merely “create[s] permanent status based on past conduct.” They further argued that treating registration as an indication of ongoing dangerousness is inconsistent with case law concluding that it is unlawful to use a registry to increase a sex offender’s punishment. Commenters criticized the study used in the NPRM to establish the high rate of sex-offender recidivism as applying to a narrow, more violent

subset of such individuals, and argued that general recidivism rates are much lower. Others pointed to the low recidivism rate among certain low-risk categories of registered sex offenders, generally asserting that numerous studies have concluded that low-risk sex offenders—those whose offenses are deemed to be less serious—have the lowest recidivism rates among any class of offender. Commenters did not provide the sources or studies they referenced.

These commenters proposed changing sex-offender registration disqualification from a permanent presumptive disqualification to a time-limited presumptive disqualification. They further pointed to problems associated with SORNA and argued that SORNA “does not reflect actual individual risk, public threat, or recidivism likelihood. Instead, it is based solely on the maximum possible sentence associated with a given offense. This structure ignores the actual sentence imposed or the specific facts of the case.” They also highlighted problems associated with federalism—i.e., a lack of uniformity in who is required to be on the offender list depending on the jurisdiction of conviction—and the Supreme Court’s holding that sex-offender registration is not to be used punitively.³³

Only one comment, from the joint letter of the 16 states’ attorneys general, proposed expanding the sex-offender disqualification to include anyone who is currently registered “as a sex offender . . . , whether or not the offense or incident that gave rise to the registration obligation would disqualify the person from possessing a firearm under the Gun Control Act.” (Emphasis omitted.) This group cited to the Supreme Court’s assessment that the “risk of recidivism posed by sex offenders is ‘frightening and high.’”³⁴

The next proposed presumptive disqualifier for which some commenters sought removal was misdemeanor offenses. Certain commenters suggested that a person should not be disadvantaged in the restoration process for what could be perceived as a minor indiscretion. Others voiced concerns over specific misdemeanor offenses, often mentioning state offenses that they viewed as allowing too much discretion in charging to qualify as presumptive disqualifiers, such as stalking, threats, simple assault, or domestic violence-related charges. Numerous commenters

opined that several of the disqualifying misdemeanors set forth in the NPRM did not necessarily include violence and suggested that lower-level versions of those offenses should be carved out of the presumptions and reviewed individually without requiring an applicant to overcome a negative inference. Offenses that commenters viewed as posing lesser risk included burglary, which could encompass breaking and entering; possession of burglary tools; vandalism; and involuntary manslaughter, which may involve unintentional or reckless conduct.

Another presumptive disqualifier that commenters asked the Department to remove was that pertaining to drug use. Comments on this topic focused primarily on marijuana use. Some commenters believed that no public safety rationale justifies presumptively disqualifying users of controlled substances, particularly marijuana users. They pointed to post-*Bruen* jurisprudence emphasizing the historic tradition of disarming primarily those persons found to be dangerous, and also to the fact that nearly two-thirds of states have legalized marijuana.³⁵ Some commenters also observed that if casual alcohol users are able to have their rights restored without overcoming a presumptive disqualification, then marijuana users should not be subject to such a presumption. On the other side of the issue, commenters who believed drug use was appropriately categorized as a presumptive disqualifier varied between those supporting a permanent ban and those endorsing some pathway to relief for former drug users, while one commenter opined that “all applicants should submit current drug test results.”

Some commenters supported removing from presumptive disqualification several types of possessory firearm offenses not committed in conjunction with violent acts, such as possession of a machine gun or possession of a firearm in a protected location. Such commenters described these offenses as administrative in nature. Commenters also contended that violating bans on certain types of gun magazines likewise should not trigger presumptive disqualification, arguing generally that laws punishing possessory offenses violate the Second Amendment because such offenses are not inherently violent. In contrast, some commenters expressed relief that the presumptions were

³³ The commenter did not provide a citation to the Supreme Court case referenced.

³⁴ Commenter cited: *Smith v. Doe*, 538 U.S. 84, 103 (2003) (quoting *McKune v. Lile*, 536 U.S. 24, 34 (2002)).

³⁵ For example, one commenter mentioned cases before the U.S. Courts of Appeals for the Fifth and Eleventh Circuits but did not provide sufficient information to identify the specific cases discussed.

applied to firearms offenses; one commenter, for example, supported the presumptions because, according to a study cited by the commenter, handgun purchasers with at least one prior misdemeanor conviction were more than seven times as likely as those with no prior criminal history to be charged with a new offense after a handgun purchase.³⁶

Next, one anonymous commenter posited that the Department should investigate “credible self-defense claims” and exempt those convictions from presumptive disqualification. Finally, another commenter posited that alien applicants prohibited under section 922(g)(5) should be removed from presumptive disqualification because “[n]o data show undocumented residents or visa holders are categorically more violent.”

Department Response: The Department addresses in turn each offense targeted by commenters for removal from the presumptive disqualification list.

Sex-Offender Registration

The Department understands commenters’ concerns about the “overly broad” application of a presumptive disqualification for SORNA registrants and certain sex offenders but disagrees with their ultimate conclusions. First, not all SORNA or sex-offender registration is presumptively disqualifying. The final rule provides at § 107.50(c)(6) that only ongoing registration stemming from the offense or offenses that led to the firearms disability will result in presumptive disqualification. Registration triggered solely by an offense that would not independently result in a firearms disability (*i.e.*, a misdemeanor offense) is not presumptively disqualifying, and this caveat should alleviate many commenters’ concerns on this topic. Moreover, the least serious felony offenses that would independently result in a firearms disability are likely to require only a time-limited SORNA registration (typically 10 to 15 years). As such, those with the least serious SORNA qualifying offenses may no longer be subject to SORNA registration by the time of their application.

Second, commenters argued that recidivism rates for certain low-risk sex offenses are lower than the recidivism rates for general criminal offenses. The

commenters, however, did not share the source of these claims. Although it is somewhat difficult to respond directly to unsourced claims, the Department notes that—according to a 2015 study completed by the Department’s Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking—sex offense recidivism rates are difficult to calculate and are often incorrectly identified as low due to artificially brief follow-up periods.³⁷ Researchers observed that “it is important to recognize that recidivism rates derived from followup periods of 5 years or less may mislabel a considerable proportion of repeat offenders as nonrecidivists.”³⁸ Although the Department does not presume to know precisely which studies commenters were referring to when making their claims, it is possible that those studies suffer from the same flaws regarding artificially low recidivism rates determined during short follow-up periods. Potentially flawed and unsourced studies are not a sufficient basis to alter the final rule’s treatment of these types of offenses.

Moreover, commenters expressed concerns that registration as a sex offender on SORNA or another system does not independently indicate dangerousness warranting the application of a presumptive disqualifier, but those concerns ignore two important considerations. One, SORNA is a tiered system of registration, requiring longer durations of registration based on the nature of the offense, the vulnerability of the victim, and prior convictions of a similar nature.³⁹ Those with less dangerous offenses will be removed from the registry sooner, and thus SORNA is properly calibrated to retain the most dangerous offenders on the registry for longer periods. Although not every state’s registry satisfies the same rigorous standards of SORNA, most offer some opportunity for removal from

a registry or otherwise align registration length to the seriousness of the offense.⁴⁰ Two, a state’s failure to permit removal from a registration can certainly be a factor that an applicant could point to when trying to overcome the presumption of disqualification. But in general, most offenders convicted of nonviolent sex offenses and deemed to be low risk will be removed from registration requirements at an appropriate time; at that point, the SORNA-registration presumptive disqualifier will no longer apply.

The Department also declines to adopt the recommendation of the 16 states’ attorneys general that registration as a sex-offender should be independently disqualifying, regardless of whether the registration is predicated on the offense causing the firearms disability. The overlap between sex-offender registration and firearms disability is substantial, and only a minority of offenses requiring sex-offender registration would not also create a firearms disability. The independent fact of registration is certainly a piece of evidence that the Attorney General can look to when making his ultimate assessment on the appropriateness of firearms restoration, but the Department declines to extend presumptive disqualification in this scenario.

Misdemeanor Convictions and Overly Broad Violent Conduct

In reference to comments proposing that certain misdemeanor offenses be removed from the presumptive disqualification list, the Department offers some clarification. To begin, section 922(g)(1) identifies any offense that is punishable by more than one year in prison, with certain exceptions identified in 18 U.S.C. 921(a)(20), as an offense prohibiting firearms possession under federal law. Although this prohibition aligns with the definition of felony offense under both federal law and the laws of many states, certain states may allow “misdemeanor offenses” to be punishable by more than one year of imprisonment. These differing definitions could lead to the same offense being treated as a misdemeanor in one state and a felony in another. Section 922(g), combined with section 921(a)(20), eliminates this confusion by providing a standard definition for offenses punishable by more than one year in prison,

³⁶ Commenter cited: Garen J. Wintemute, *Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity Among Authorized Purchasers of Handguns*, 280:24 JAMA 2083 (Dec. 1998), <https://jamanetwork.com/journals/jama/fullarticle/188297> (“Prior Misdemeanor Convictions”).

³⁷ Roger Przybylski, U.S. Dep’t of Just., Off. of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, *SOMAPI Research Brief: Recidivism of Adult Sexual Offenders 1–2* (July 2015), <https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/recidivismofadultsexualoffenders.pdf> (noting that recidivism rates are difficult to calculate because of “the surreptitious nature of sex crimes, the fact that few sexual offenses are reported to authorities, and the variation in the ways researchers calculate recidivism rates”). This study noted that recidivism rates for sex offenders were almost five times higher at 15 years than they were at 3 years. *Id.* at 4.

³⁸ *Id.*

³⁹ U.S. Dep’t of Just., Off. of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, *Sex Offender Registration and Notification in the United States: Case Law Summary 72* (July 2024), <https://smart.ojp.gov/case-law-summary-july-2024.pdf>.

⁴⁰ Restoration of Rights Project, *50-State Comparison: Relief from Sex Offense Registration Obligations* (Oct. 2022), <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-relief-from-sex-offender-registration-obligations/>.

identifying those offenses as disqualifying, and providing that any offense that does not meet that definition is not disqualifying.⁴¹ Domestic violence misdemeanor convictions, in accordance with section 922(g)(9), are the only convictions that are punishable by less than one year in prison and that still serve as disabling predicate convictions. Those offenses are addressed separately above. Nevertheless, the final rule at § 107.50(b)(4) does identify persons under a firearms disability who have also been convicted of certain violent misdemeanor offenses as being presumptively disqualified from relief for a period of five years. This time-limited presumption was added to the proposed rule in recognition of evidence cited by commenters showing that individuals with convictions that involve violence are more likely to pose a danger to the public in the immediate aftermath of that conviction than those who commit offenses without any violent characteristics.⁴² Moreover, this

presumption acknowledges that some felony-level violent conduct may result in only misdemeanor-level conviction and punishment, as noted in the discussion of domestic violence offenses.

Importantly, regarding the concerns of some commenters that statutes criminalizing threats or stalking often encompass a wide range of conduct, the Department maintains that stalking is a crime that is either inherently violent or closely associated with violence, and so it is properly placed into the permanent presumptively disqualified category when it rises to the level of a felony, and warrants a five-year presumption of disqualification even when it rises only to the level of a misdemeanor.⁴³ Exceptions to these presumptions are addressed by the final rule's extraordinary circumstances mechanism at § 107.50(a), (b), whereby applicants may submit statements or information indicating that, based on the individual circumstances of their offense, restoration of their firearms rights is not likely to pose a danger to the public and would be aligned with the public interest. The Department will review those claims and may consider factors such as whether the underlying conduct could have been addressed through lesser charges, the amount of time elapsed since the conduct, and the age of the person at the time of the conduct when determining whether an applicant has shown extraordinary circumstances.

Conversely, the Department agrees that it may have exercised an overabundance of caution when including in the permanent presumptive disqualification category offenses involving the mere threat of violence, rather than the performance of any violent act against a person. The final rule at § 107.50(b)(1)(ii) revises the presumptive disqualification for these types of offenses to a time-limited 10-year period, in recognition of the fact that some convictions involving threats of violence may not ultimately reflect dangerousness on the offender's behalf. For example, the Supreme Court recently affirmed that convictions for "true threats" can involve speech that is merely reckless and lacks a "more specific intent to threaten the victim."⁴⁴

nearly twice the relative risk of reoffending with a new violent offense (8.9) as those with only one prior nonviolent misdemeanor conviction (4.8)).

⁴³ U.S. Dep't of Just., Off. on Violence Against Women, *Stalking*, <https://www.justice.gov/ovw/stalking> (last visited July 4, 2026) (defining stalking as "engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.").

⁴⁴ *Counterterm v. Colorado*, 600 U.S. 66, 73 (2023).

Two concurring Justices reiterated that threats do not necessarily involve the intent "to carry through with the threat."⁴⁵ Because of the broad nature of the speech that is encompassed in threats as construed by the Supreme Court, the Department acknowledges that not all individuals who are convicted of offenses involving threats demonstrate the same elevated propensity for violence as those who commit one of the violent offenses enumerated in the permanent presumptive disqualification section. On the other hand, it is undoubtedly true that some portion of those individuals who threaten violence do go on to commit violence. The final rule balances these considerations and includes a 10-year presumptive disqualification for convictions involving threats of violence.

Drug Users

The Department appreciates comments received regarding the presumptive disqualification of current drug users. As explained further below, the final rule continues to include certain drug users and addicts as categories of persons presumptively disqualified from relief under this final rule. The Department, however, has amended the rule to exclude from the scope of the presumption those individuals whose unlawful drug use or addiction consists only of the use of or addiction to marijuana, in recognition of the Supreme Court's recent decision in *Hemani* and in light of the many comments received regarding use of marijuana.⁴⁶ Specifically, the definition of "controlled substance" in the final rule at § 107.1 no longer includes marijuana, and the presumption of ineligibility for relief based on unlawful drug use or addiction at § 107.50(c) now applies only to controlled substances as defined in § 107.1. These changes have the effect of excluding unlawful marijuana use and marijuana addiction from the scope of conduct giving rise to a presumption of ineligibility under § 107.50(c).

With respect to the rule's remaining drug-based presumption of ineligibility (*i.e.*, for drugs other than marijuana), the Department notes that individuals prohibited from owning firearms based on drug use or addiction are among the class of persons who can take themselves out of the prohibited

⁴⁵ *Id.* at 84 (Sotomayor, J. & Gorsuch, J., concurring).

⁴⁶ The Department also made technical changes to reorganize the provision regarding individuals engaging in ongoing unlawful conduct and to improve the final rule's clarity. See 28 CFR 107.50(c).

⁴¹ 18 U.S.C. 921(a)(20) ("The term 'crime punishable by imprisonment for a term exceeding one year' does not include—(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offense relating to the regulation of business practices, or (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.").

⁴² See, e.g., U.S. Dep't of Just., Bureau of Just. Stats., *Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008–2018)* 10 tbl. 11 (Sept. 2021) ("Recidivism of Prisoners Released in 24 States in 2008"), https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs (<https://perma.cc/ZT4S-38GF>) (showing that nearly 44 percent of violent offenders who were arrested after release were arrested for violent offenses (most frequently assault), as opposed to less than 35 percent of drug offenders, less than 40 percent of property offenders, and less than 42 percent of public order offenders being arrested for a violent offense); U.S. Sentencing Comm'n, *Recidivism Among Federal Violent Offenders* 3 (Jan. 2019), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2019/20190124-Recidivism_Violence.pdf ("[O]ffenders who engaged in violent criminal activity . . . generally recidivated at a higher rate, more quickly, and for more serious crimes than non-violent offenders Violent offenders have higher recidivism rates than non-violent offenders in every Criminal History Category, however, the difference in recidivism rates between violent and non-violent offenders is most pronounced in the lower Criminal History Categories and [certain specially designated categories]."); Julia P. Schleimer, Rachel Ross & Ali Rowhani-Rahbar, *Association of Prior Criminal Charges and Convictions with Subsequent Violent and Firearm-Related Crime: A Retrospective Cohort Study*, 12 *Injury Epidemiology* 5 (2025), <https://link.springer.com/article/10.1186/s40621-025-00593-x> ("The absolute risk among those with prior misdemeanors was also high; for example, approximately 30% of those with a violent misdemeanor charge had a subsequent violent charge within 5 years."); *Prior Misdemeanor Convictions* at 2086 tbl. 5 (showing that those with at least one violent misdemeanor conviction had

category simply by ending their unlawful conduct and avoiding additional drug-related conduct for a period of time—thus disrupting the “pattern” of drug use. Drug-use prohibitions are documented in the National Instant Criminal Background Check System (“NICS”),⁴⁷ a centralized repository of records documenting those who are under federal or state firearm prohibitions. Since 1997, NICS has viewed an individual as being a current drug user if, within the past year, the person has had a conviction for drug use or possession or has engaged in conduct that indicates drug use and, accordingly, drug-use-related records are retained in NICS Indices for only one year.⁴⁸ As a result, individuals prohibited on the basis of drug use or addiction can regain the right to possess a firearm, assuming no other prohibitors apply to them, by abstaining from ongoing drug use and allowing 12 months to pass. For these individuals, this final rule’s drug-use-related presumption of ineligibility for relief under section 925(c) is irrelevant because such individuals will not need to apply for relief under section 925(c) at all.

Next, ATF recently amended the regulatory definition of “unlawful user” for purposes of documentation in NICS Indices to exclude the use of controlled substances that is “isolated or sporadic or does not otherwise demonstrate a pattern of ongoing use.”⁴⁹ Due to this change, the active number of NICS Indices entries for unlawful users and those addicted to a controlled substance dropped from 54,136 as of December 31,

2025,⁵⁰ to 6,169 users as of May 31, 2026,⁵¹ making the issue moot for approximately 89 percent of those previously affected. Indeed, out of 34,744,424 prohibited category entries in the NICS Indices, this category now constitutes just over 0.016 percent of the entries.

For these reasons, the Department has decided to retain the rule’s general presumption of ineligibility for relief related to certain forms of drug use and addiction. As noted above, however, the Department has made changes to the rule in light of the Supreme Court’s decision in *Hemani*. Although that case preserved the prohibition in section 922(g)(3) as a general matter, the Court concluded that the defendant’s regular use of marijuana did not necessarily establish that he posed a danger to himself or others, and hence that section 922(g)(3) could not constitutionally be applied to him. *See Hemani*, 146 S. Ct. at 1689, 1693. The Court’s finding echoed the concerns expressed by commenters on the NPRM, who likewise focused almost exclusively on marijuana users and argued that regular marijuana use does not render the user dangerous to the public. In view of these developments, the Department has made the adjustments mentioned above to exclude marijuana use or addiction as a presumptive disqualifier under § 107.50(c). And for similar reasons, the Department has amended the rule so that applicants and their character references are no longer required to affirm that the applicant is not a user of or addicted to marijuana. *See* 28 CFR 107.1, 107.10(g)(13)(iii)(B) & (14)(ii). The Department acknowledges that making these changes with respect to marijuana addicts (not just marijuana users) goes beyond the facts at issue in *Hemani*, but the Department has determined that doing so is necessary to improve the administrability of the restoration process. Whether an individual is a marijuana “user” or a marijuana “addict” is a highly fact-specific inquiry, and the Department would struggle to differentiate between the two on the basis of the kind of evidence likely to be submitted with an application for restoration. Further, attempting to collect and evaluate additional information to accurately differentiate between marijuana “users” and marijuana “addicts” would require time and resources that would defeat the administrability benefits of imposing a presumption of

disqualification in the first place. Given these considerations, the Department has determined that excluding both marijuana users and marijuana addicts from §§ 107.10(g)(13)–(14) and 107.50(c) best balances the relevant policy considerations.

Firearms Offenses

The Department understands the concerns expressed by commenters that certain nonviolent, possessory firearms offenses may have been inappropriately included in the permanent presumptive disqualification list proposed in the NPRM. The Department agrees that certain possessory and nonviolent firearms convictions may have involved a strict-liability application of the law, where no malicious intent or violence was evidenced; where the individual had little or no prior criminal history; or where the individual may have been authorized to possess a firearm in circumstances outside the scope of the statute’s specific prohibition, such as when lawful firearm-permit holders are nonetheless prohibited from possessing firearms in certain sensitive locations. Also, there is evidence that those who are most likely to be convicted of a strict-liability, possessory offense without any aggravating conduct—those with little to no prior criminal history or those who may otherwise lawfully possess a firearm outside of the restrictions of the statute—have significantly lower rates of both committing criminal offenses and recidivating.⁵² In these cases, permanent presumptive disqualification is too severe a result.

Conversely, the Department also recognizes that many firearms offenses are accurately prosecuted and charged as either independently violent crimes or as crimes accompanying other violent

⁴⁷ NICS is the system used to conduct background checks on people who want to own a firearm or explosive, as required by law. FBI, *How We Can Help You*, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics> (last visited July 4, 2026). NICS provides the primary means of identifying those who are prohibited from owning firearms, including those who are prohibited based on drug use or addiction to a controlled substance.

⁴⁸ *See* FBI, *Active Entries in the NICS Indices as of December 31, 2025* at 6, <https://www.fbi.gov/file-repository/cjis/active-entries-in-the-nics-indices.pdf/view> (last visited July 4, 2026) (“Active Entries”) (“Since [evidence of being an unlawful user or addicted to a controlled substance creates] a temporary prohibition (one year), an expiration date [for such evidence] is required to be established in NICS Indices.”); 28 CFR 25.9(a) (“In cases where a firearms disability is not permanent, e.g., a disqualifying restraining order, the NICS will automatically purge the pertinent record when it is no longer disqualifying.”). Documents indicating drug use could include items such as positive drug tests or admissions of use. *Active Entries* at 6; *see also* Revising Definition of “Unlawful User of or Addicted to Controlled Substance,” 91 FR 2698, 2700 (Jan. 22, 2026) (“Since ATF published the 1997 final rule, the [FBI], in operating NICS, has relied on the inference examples in the regulatory definition of unlawful user.”).

⁴⁹ 91 FR at 2708.

⁵⁰ *Id.* at 2704.

⁵¹ FBI, *Active Entries in the NICS Indices* (May 31, 2026), https://www.fbi.gov/file-repository/cjis/active_records_in_the_nics-indices.pdf/view.

⁵² *See, e.g.*, U.S. Sentencing Comm’n, *Recidivism of Federal Firearms Offenders Released in 2010* 39 tbl.19 (2021), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2021/20220209_Recidivism-Firearms.pdf (identifying recidivism rates below 40 percent for those who were convicted only of a federal possessory, prohibited weapons offense, such as possession of a National Firearms Act firearm, and who were in the lowest criminal history category) (“*Recidivism of Federal Firearms Offenders*”); K. Alexander Adams *A State-by-State Analysis of Concealed Carry Permit Revocations* 4 Firearms Rsch. Ctr., Coll. of L., Univ. of Wyo., Working Paper No. 2025–9 (Nov. 19, 2025), https://firearmsresearchcenter.org/wp-content/uploads/2025/11/2025-9-K_Alexander_Adams.pdf (“The data demonstrate that [firearms] permit holders can be described as extremely law abiding.”) (“*State-by-State Analysis*”). Researchers identified the revocation of firearms permits as a close proxy for assessing the rate of violent conduct for firearms users and found that the “[r]ates of overall [revocation] are 12 times lower than rates of violence among the general population.” *State-by-State Analysis* at 14.

offenses. Further, violent firearms offenders have been found to carry higher recidivism rates than other categories of offenders. The *Recidivism of Federal Firearms Offenders* study by the U.S. Sentencing Commission found that over two-thirds of all firearms offenders were rearrested within an eight-year period following their release (compared to approximately 45 percent of all other offenders), and that the likelihood of recidivism was particularly high for persons with lengthy and serious criminal histories.⁵³

To complicate matters even more, the statutes that are used to prosecute these distinct types of conduct—nonviolent, strict-liability, possession offenses, on the one hand, and violent firearms offenses, on the other—are often the same, and there may be no simple way to distinguish these disparate kinds of conduct on the face of the conviction. For example, both possession of a firearm on school property (potentially a nonviolent, possessory offense) and discharge of a firearm on school property (an offense of violence), are prosecuted federally under 18 U.S.C. 922(q), albeit different subsections. Although the precise subsection applicable to an offender might, in some small subset of cases, be discernable from specific documents in the record of the criminal proceeding, the Department's experience in reviewing convictions as part of the pardon process and in other contexts indicates that it would be difficult in most cases to determine with accuracy the specific subsection at issue. Federal jurisdictions can have widely differing practices, making it difficult to find any document that uniformly records the type of detailed information the Department would need to differentiate between convictions under different subsections of statutes. The Department's difficulties would be compounded by the divergent practices that states and localities have adopted in charging and documenting convictions. Further, the Department recognizes that, in the case of older convictions, relevant documents may be inaccessible or destroyed due to age.

Thus, the records that the Department is consistently likely to receive from applicants or to be otherwise able to access during the section 925(c) application process may very well lack the detail necessary to understand the full scope of conduct in the case.

Recognizing the complex scenarios involving disparate risks and fact patterns associated with similar convictions, while still endeavoring to promote efficient processing of relief applications, the Department at § 107.50(b)(1)(iv)–(v) has shifted the presumptive disqualification for firearms offenses from a permanent disqualification to a 10-year presumptive disqualification. This time-limited presumption will promote the Department's goal of focusing its resources initially on those applicants who—by virtue of not being subject to a presumption—are most likely to be able to establish that they satisfy the standard for restoration in section 925(c). At the same time, imposing only a time-limited presumption recognizes that not all persons convicted of firearms offenses of the sort described in this section will necessarily have engaged in the violent conduct that makes a permanent presumptive disqualification appropriate. Importantly, the Department is not obligated to grant an applicant's restoration upon the expiration of the presumptive disqualification period, and would be statutorily barred from doing so if it finds that the restoration of firearms rights to the applicant is likely to cause a danger to the public or would be contrary to the public interest. Thus, the shift to a 10-year presumptive disqualification would not, on its face, be more likely to result in unwarranted restorations than the proposed permanent disqualification.

The shift to a 10-year presumption will preserve the Department's ability to consider statements by applicants seeking to demonstrate that the particular circumstances of their conduct qualify as extraordinary and hence overcome the presumption that they should be disqualified from relief for that full 10-year period. The shift to a 10-year presumption will also help the Department properly identify other potentially strong applicants immediately upon the expiration of the 10-year presumption. (By contrast, if the permanent presumption of disqualification for firearms offenders remained in place, these applicants might never be considered.) For all these reasons, the Department believes the 10-year presumptive disqualification best balances the competing policy interests associated with the firearms

offenses discussed in this section. The Department suggests that individuals who seek to demonstrate extraordinary circumstances overcoming the 10-year presumption for past firearms convictions explain in their applications the extent to which their offense conduct was nonviolent, merely possessory, may have been lawful but for the location or circumstance of offense, or resulted solely from a strict-liability application of a statute.

Explosives

Similar to past firearms convictions, convictions related to the possession, manufacture, transfer, or use of explosives could be deemed independently violent offenses or offenses closely associated with substantive violent conduct, or they could be mere strict-liability violations that do not indicate the applicant is likely to pose an ongoing threat to public safety. For example, charges of carrying an explosive during the commission of a felony under 18 U.S.C. 844(h)(2) could involve substantively violent intent but also could include individuals who are legally carrying explosives at the time they are engaged in unrelated and nonviolent conduct. Further, the definition of explosives at section 844(j) includes combustible materials that have uses beyond their mere explosive capabilities, such as kerosene and types of fertilizers.⁵⁴ Details regarding the culpability of a person convicted under section 844 are not facially apparent from the records the Department is likely to receive in the initial stages of its review. Accordingly, standalone explosive offenses have also been moved from a permanent to a 10-year presumptive disqualification period. *See* 28 CFR 107.50(b)(1)(iii). The Department similarly suggests that people who seek to demonstrate extraordinary circumstances overcoming the 10-year presumption for past explosives convictions explain in their applications the extent to which their underlying offense conduct was nonviolent, merely possessory, may have been lawful but for the location or circumstance of offense, or resulted solely from a strict-liability application of a statute.

⁵³ *Recidivism of Federal Firearms Offenders* at 6, 13–14, 16–18 (assessing recidivism for individuals convicted under federal firearms statutes, primarily comprised of convictions for prohibited persons in possession of a firearm (section 922(g)), career offenders (U.S. Sentencing Guidelines section 4B1.1), armed career criminals (section 924(e)), possession of a firearm related to drug trafficking or a violent offense (section 924(c)), and other miscellaneous provisions, including straw purchasers of firearms; unlawful sales of firearms; and possession or sale of dangerous firearms, such as sawed-off shotguns or machine guns). The study further noted that for offenders with the most serious category of prior criminal history offenses, recidivism was at nearly 83 percent. *Id.* at 7.

⁵⁴ *See e.g., U.S. v. Renshaw*, 553 U.S. 272, 277 (2008) (Breyer, J., dissenting) (“My problem with the Court’s interpretation is that it would permit conviction of any individual who legally carries explosives at the time that he engages in a totally unrelated felony. ‘Explosives’ . . . encompasses such commonplace materials as kerosene, gasoline, or certain fertilizers.”).

Animal Abuse

The Department has also reviewed the placement of felony animal abuse in the permanent presumptive disqualification group and has elected to move this category of offenses to a 10-year presumptive disqualification period. The Department does so in recognition of the fact that animal abuse behaviors are not all alike. Some individuals convicted of these types of offenses do pose a high potential for ongoing danger to public safety.⁵⁵ But felony animal abuse can also encompass instances of severe neglect consistent with hoarding behaviors that do not necessarily reflect the same ongoing public safety risks or violent intent.⁵⁶ Situating animal abuse in the 10-year presumptive disqualification category strikes an appropriate balance in light of the way that the severity of this offense can vary, similar to the balancing the Department is employing for firearms and explosives possession offenses.

Aliens

The Department declines to remove aliens subject to disability under 922(g)(5) from the presumptive disqualification because this group is not “part of ‘the people’ to whom the protections of the Second Amendment extend.”⁵⁷ Further, even though there may be an argument that lawfully present nonimmigrants do not fall within the group excluded from the protection of the Second Amendment by *Sitladeen*, the Department declines to divide the category of individuals subject to section 922(g)(5) on the basis of whether an alien is lawfully or unlawfully present. The establishment of a presumptive disqualification for all persons who fall under section 922(g)(5), whether lawfully or unlawfully present, is consistent with Executive Order 14206, 90 FR 9503, (Feb. 7, 2025) (“Protecting Second Amendment Rights”), which directs executive agencies and departments to assess any ongoing infringements of the Second Amendment rights “of our citizens” and to create a plan of action to protect the Second Amendment rights “of all Americans.” The order also emphasizes that the Attorney General

should pay particular attention to previous presidential policies that may have impaired the rights of “law-abiding citizens,” highlighting that the Department should prioritize protection for citizens rather than aliens, regardless of whether the aliens are in the country lawfully or unlawfully.

In the Department’s view, the presumptive disqualification of all individuals prohibited from owning firearms under section 922(g)(5), regardless of whether the individual is lawfully or unlawfully present, will support the preservation of limited resources and better enable the evaluation of applications from citizens. The Department emphasizes that the presumption is rebuttable, and the presumption thus does not preclude any aliens from having their firearms rights restored. In addition, aliens can take themselves out of both the presumptive disqualification and the underlying prohibited category by adjusting their status, further indicating the appropriateness of restricting section 925(c) relief for unadjusted alien applicants. But, the Department expects this permanent presumption will enable it to direct more resources towards applications from citizens, consistent with Executive Order 14206.

Self-Defense Claims

Finally, the Department disagrees with the commenter’s proposal that individuals with valid self-defense claims should be excluded from the presumptive disqualification that applies to those with convictions for violent crimes. A person facing prosecution for a violent crime has the opportunity to raise a self-defense claim in the criminal proceedings. That the person was ultimately convicted despite that opportunity supports the conclusion that the claim was not credible. Further, nothing prevents an applicant from raising self-defense as a potential “extraordinary circumstance” for the Attorney General to consider when deciding whether the presumptive disqualification against violent offenders should be overcome.

In sum, the Department strongly disagrees with the assertion that permanent presumptive disqualifiers are overbroad or arbitrary, as they are grounded in the GCA itself, case law, and research indicating a likelihood of violence or abnormally high recidivism rates among certain categories of offenders. The Department appreciates several commenters’ requests to expand the categories of presumptively disqualified persons, but it concludes that the proposed additions generally already fit within the NPRM’s proposed

permanent presumptive disqualifier list and that further expanding the list could result in unduly disqualifying too many applicants. Conversely, reducing the number of permanent presumptive disqualifiers in ways other than those discussed above—*i.e.*, excluding marijuana use and addiction from the presumptive disqualification under § 107.50(c) and shifting certain offenses from the permanent to time-limited category—would be under-inclusive. The Department believes that the final rule, with the adjustments described in this section, will allow for efficient review of applications while fulfilling the Attorney General’s statutory obligation to restore firearms rights in a manner consistent with public safety and the public interest. In the event any individual applicant’s circumstances are not well captured by the final rule’s presumptions, the Department invites an explanation from the applicant regarding those extraordinary circumstances. In this way, the final rule provides sufficient mechanisms that allow the applicant to attempt to show extraordinary circumstances to overcome the presumption, thus allowing the Attorney General to make an individualized determination of whether the person applying for restoration is likely to act in a manner that will endanger the public and whether the restoration is contrary to the public interest.

G. Time-Limited Presumptive Disqualifications

Comments Received: Another topic that generated robust discourse was the time-limited presumptive disqualifications in the NPRM, *i.e.*, the 10-year presumption for drug trafficking or domestic violence offenses, the 5-year catch-all presumption for offenses leading to a prohibition under § 922(g)(1) that do not fall into the other presumptive disqualification categories, and the 5-year presumption for reapplication. Many commenters were generally in favor of these presumptions, and some had, even before the NPRM’s release, expressed their preference for a “waiting period” or a mandatory “good conduct” period in some or all cases. Commenters in favor generally pointed to studies showing that recidivism rates are highest in the years immediately following release from custody but then fall after 5 to 10 years. Others described a 5-to-10-year presumption of ineligibility as “sensible” and a “reasonable timeframe for applicants to demonstrate rehabilitation.” A few commenters pointed to their own successful return to society after similar

⁵⁵ See, e.g., U.S. Dep’t of Just., Off. of Att’y Gen., *Prioritization of Animal Welfare Enforcement* (Feb. 18, 2026), https://www.justice.gov/ag/media/1427921/dl?inline=&utm_medium=email&utm_source=govdelivery.

⁵⁶ See, e.g., Am. Soc’y for the Prevention of Cruelty to Animals, *Animal Hoarding*, <https://www.aspc.org/helping-people-pets/animal-hoarding> (last visited July 4, 2026) (describing those who commit animal hoarding as people who typically have suffered traumatic and chaotic childhoods and social histories).

⁵⁷ *Sitladeen*, 64 F.4th at 987.

timeframes, and some who supported time-limited periods of ineligibility also supported automatic restoration at the end of the relevant timeframe.

Some commenters agreed with imposing a “waiting period” before an application could be made but proposed an alternative number of years or alternative methods of calculating the delay. For instance, some commenters argued that, “[b]y counting the indictment-to-sentence time toward these limits, the law continues to protect the public while also ensuring individuals are not punished beyond what is necessary[.]” whereas other commenters contended that “[a]ll waiting periods should be POST RELEASE FROM CUSTODY, NOT PROBATION.” A few commenters proposed requiring waiting periods for additional categories of applicants, including those found not guilty by reason of insanity, or moving some permanent presumptively disqualifying offenses—such as assault, battery, stalking, or terrorism—into a time-limited presumption. At least one commenter proposed longer waiting periods of 20 years or 15 years. The 16 states’ attorneys general proposed a 15-year presumption of ineligibility for domestic violence offenses, citing a greater public safety risk than the risk posed by individuals with drug trafficking convictions.

Conversely, a minority of commenters were opposed either to the time-limited presumptions altogether or to the particular terms of years identified in the rule. Those who believed some shorter presumptions were appropriate proposed alternative options, such as one-year presumptions for nonviolent felonies and five-year presumptions for nonviolent drug offenses, or incremental restoration, whereby offenders could possess or otherwise handle different types of firearms at different intervals. One commenter proposed further dividing misdemeanor domestic violence convictions between those that involve firearms and those that do not and reducing the length of the presumption for non-firearms cases to five years. Another commenter observed that some misdemeanor crimes of domestic violence can result from even “the smallest of reasons . . . [where] no guns, weapons, or physical force were involved” and opined that a five-year presumption was more suitable in that instance. Several commenters suggested the Department offer a more tailored approach that “allows applicants to demonstrate extra ordinary rehabilitation after shorter intervals, especially for non-violent crimes.”

Some commenters described the time-limited presumptions as “arbitrary.”

A few commenters remarked on the NPRM’s five-year presumption of ineligibility for relief for all “other” felony convictions, arguing that it “undermine[d]” the purpose of section 925(c) and overlooked important individual circumstances. Alternative proposals included a three-year presumption of ineligibility, with commenters citing the recidivism study in the NPRM as identifying major drops in recidivism after three years.⁵⁸

Department Response: The Department appreciates the many thoughtful comments on this topic. However, the Department firmly believes that imposing a system of time-limited presumptions of ineligibility for relief is a measured and carefully tailored approach that will enable the efficient processing of applications and the prioritization of individuals who are most likely to successfully demonstrate that their federal firearms rights should be restored. The Attorney General requires evidence upon which to make his determination that an applicant does not pose a likely risk to public safety and that granting relief is not contrary to the public interest. The best evidence that a person is not a danger is a period of successful adjustment and reintegration into society after the guardrails of incarceration, probation, and supervision are removed. The final rule thus makes use of this evidence.

The particular time-limited presumptions identified in the final rule are calibrated to the nature of the relevant offenses and the likelihood for recidivism as outlined in the various studies cited in the NPRM. *See, e.g.*, 91 FR at 34396–97 & nn.18–20. Based on such research, and for the other reasons outlined in this preamble, the Department in this final rule has decided to impose a permanent presumption of disqualification for the most violent offenses; a 10-year presumption for drug trafficking and misdemeanor domestic violence, which have high recidivism rates; a 10-year presumption for firearms or explosives offenses, which encompass unusually complex and diverse conduct that could include crimes associated with high recidivism rates; a 10-year presumption for offenses involving threatened, rather than actual, violence; and a 5-year presumption for certain other offenses. The 10-year presumptive disqualification period for drug trafficking offenses helps to keep guns out of the hands of chronic drug

offenders who, because of their high recidivism rates, are unable to maintain the 10-year period of good conduct necessary to demonstrate they have reformed. That same presumption helps keep guns out of the hands of large-scale drug traffickers whose lengthy incarceration sentences, when combined with the 10-year presumptive disqualification period following the end of the incarceration, make them unlikely to be able to obtain relief through the process outlined in this rule.⁵⁹ Next, the 10-year presumption that applies to those convicted of firearms or explosives crimes strikes an appropriate balance by helping to keep guns away from offenders who are likely to be violent and have high recidivism rates, while still acknowledging that the recidivism risk posed by nonviolent weapons offenders (who may have been lawfully allowed to possess firearms or explosives in circumstances separate from those at issue in their convictions) is appreciably lower, thus making a permanent presumptive disqualification inappropriate.

Further, the 10-year presumption applicable to misdemeanor crimes of domestic violence recognizes that not all individuals who commit such offenses demonstrate a long-term propensity to continue engaging in such conduct. The final rule not only establishes a 10-year presumption of disability following the commission of a domestic violence offense but also mandates (at § 107.50(b)(2)) that the 10-year period reflect good conduct without further arrests or law enforcement reports. That means that an individual with a prior misdemeanor domestic violence conviction who has demonstrated a period of post-conviction good conduct but incurs an arrest for a violent offense in year 9 would restart the 10-year clock at that point. This provision should help to address any concerns from commenters that the 10-year period for those with misdemeanor crimes of domestic violence is insufficient to ensure that an applicant is unlikely to pose a danger to public safety and that granting relief is not contrary to the public interest. By

⁵⁹ The high likelihood of recidivism in this population makes it likely that additional presumptions against relief based on further disqualifying conduct will accrue for many individuals in this population, thus impairing their ability to obtain relief. *See e.g., id.* at 5 (noting that almost two-thirds of drug offenders released in 2008 were arrested within 3 years, while 81 percent were arrested within 10 years). Further, even for those individuals who do not commit additional crimes, the individuals’ lengthy prison sentences and the 10-year presumption will make it difficult for such individuals to obtain relief simply because of the passage of time.

⁵⁸ *See Recidivism of Prisoners Released in 24 States in 2008* at 1.

contrast, for commenters concerned that a 10-year period is too lengthy, particularly in instances of minor, isolated conduct, federal law already provides for the removal of firearms disability after 5 years where a minor offense took place in the course of certain relationships.⁶⁰ And even if the offender's minor conduct falls outside the scope of this already existing remedy for any individual applicant, the applicant can still seek to overcome the presumption of ineligibility by pointing to the specific circumstances of his or her case.

The 10-year presumption applicable to crimes involving threats of violence likewise recognizes that, although threats of violence are often a precursor to actual violence or are accompanied by it, convictions involving threatening conduct, such as verbal threats, do not always require that the person committing the offense intends to engage in actual violence. Thus, presumptively denying applications from people with this offense history for a period of time will help to ensure that Department resources are directed toward applications with a strong likelihood of success and will mitigate the risk that those with a high propensity of violence will receive firearms rights, while also accounting for the fact that offenders in this category may not pose the same public safety threats as those convicted of physically violent offenses.

As to commenter concerns regarding the blanket five-year presumptive waiting period for all other prior felony convictions, the final rule carefully establishes an appropriate length of time to assess an applicant's adjustment back into society after a disabling conviction. One study cited in the NPRM showed that almost 13 percent of released state prisoners incur their first post-release arrest during the fifth year following their release.⁶¹ An earlier study identified that over three-quarters, or 76.6 percent, of individuals released from prison had been rearrested within five years of their release.⁶² These

studies illustrate that, although five years following a release does not necessarily reflect the peak recidivism risk—which likely occurs earlier than that point—there still remains a substantial risk of reoffending at year five that diminishes in years thereafter. Due to this recidivism risk, the Department concluded that applicants less than five years removed from the completion of their sentences are presumptively likely to pose a danger to public safety and that granting them relief would presumptively be contrary to the public interest.

Moreover, a general five-year waiting period is commensurate with the regulations governing eligibility to petition for pardon after completion of a sentence, *see* 28 CFR 1.2, and the pardon process is one of the only mechanisms currently in existence that can provide similar relief from a federal firearms disability. The five-year period established in the pardon regulation, which can be waived for good cause, was determined to be an appropriate point at which a person could demonstrate readjustment to society, and the restoration process outlined in this final rule benefits from adopting a similar waiting mechanism.

H. Mental Health

Comments Received: Commenters opining on mental health were split between those who worried about the public safety implications of restoring rights to individuals who lost firearms rights because of mental health determinations; those who believed that the final rule should contain a sufficient means to restore firearms rights without overly burdening this subset of individuals; and those who sought clarity on how decisions regarding mental health issues would be made. Those commenters primarily worried about public safety suggested provisions that they deemed essential to the final rule, including requiring “an independent psychological evaluation” or requiring evidence that a person has been restored to mental competency. At least one commenter urged the Department to require a mental health certification for all applicants as a public safety measure. Conversely, some commenters worried that the NPRM's requirement that applicants provide records of decisions regarding restoration of mental competency would be too burdensome for applicants from states where no process for such restoration exists; these commenters noted that some long-term mental health

conditions are manageable and that the person does not pose a danger after the condition is under control. Instead of the provision described in the proposed rule, these commenters preferred relying solely on the current certification from a mental health professional.

Several commenters also worried about the interaction of state restoration programs with the federal process, asking that the final rule clarify whether an applicant should exhaust available remedies through state ATF-certified relief programs before applying federally. At least one commenter expressed concern that the final rule would require states with ATF-certified relief programs to expend additional funds to meet new certification requirements.

Department Response: The Department appreciates the public comments on this topic. The Department recognizes the importance of balancing the restoration of firearms rights for those who no longer pose a danger to the community with the need to protect the public from individuals who continue to pose an ongoing danger to the community due to their mental health. The final rule provides a sound methodology to achieve this goal.

In response to commenters' concerns, the final rule makes clear that the remedy available through this rule's process is open only to those individuals with current disabilities under 18 U.S.C. 922(g). With respect to mental health disabilities, those individuals who already have received relief from a section 922(g)(4) disability imposed by either a state or territory that has adopted a relief from disability program implemented in compliance with 34 U.S.C. 40915, or from a federal department or agency that has adopted a relief from disability program or other administrative process, are no longer subject to the disability in 18 U.S.C. 922(g)(4). No one in this position is eligible for, or will need to utilize, the process established in this final rule.

Next, § 107.60(b) of the final rule requires individuals who have available alternate remedies through either a federal agency process or a state restoration process (regardless of whether the state process is certified by ATF) to exhaust that process before pursuing federal relief. This exhaustion requirement directs many people with current section 922(g)(4) disabilities to established and effective resources that may be able to provide them with the relief they are seeking. The alternate processes are well-suited to address the specific needs of these applicants because they are overseen by the same state or other entity that first imposed

⁶⁰ 18 U.S.C. 921(33)(C) (“Provided, That, in the case of a person who has not more than 1 conviction of a misdemeanor crime of domestic violence against an individual in a dating relationship, and is not otherwise prohibited under this chapter, the person shall not be disqualified from shipping, transport, possession, receipt, or purchase of a firearm under this chapter if 5 years have elapsed from the later of the judgment of conviction or the completion of the person's custodial or supervisory sentence[.]”).

⁶¹ *Recidivism of Prisoners Released in 24 States in 2008* at 17.

⁶² U.S. Dep't of Just., Bureau of Just. Stats., *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010* 7 (Apr. 2014),

<https://bjs.ojp.gov/content/pub/pdf/rprts05p0510.pdf>.

the disability. Thus, reliance on already-existing processes should be preferred over the newly established federal process in these instances.

The final rule further establishes at § 107.60(b) presumptive disqualifications for individuals who have exhausted the available state or alternative processes, but who have been denied the requested relief by those entities. The Department expects it would rarely overturn the state or other entity's decision after a full review of the facts before it, but the final rule does not completely foreclose the applicant from raising arguments that would allow the applicant to overcome the presumption.

The Department also notes that limiting applications from individuals with alternative remedies will allow it to focus resources on a smaller pool of applicants seeking relief. This smaller pool will consist primarily of individuals from states where no relief mechanism is available and individuals who are ineligible to obtain relief from the state or entity that imposed the prohibition. The final rule also clarifies the documentation needed from the applicant. Importantly, the final rule does not impose an additional burden on states. The rule relies on processes already in existence without requesting modification, and the rule does not require those states without a process to create one. Also, the rule does not change the certification requirements of the current ATF-certified relief program for mental health prohibitions.

As to commenters' specific concerns regarding public safety, the Department agrees that, for persons without alternative state processes and who are not presumptively disqualified from relief, requiring the applicant to provide an independent mental health evaluation is a prudent measure to protect public safety, and the final rule at § 107.10(g)(5) requests a functionally similar document: a current certification from a licensed mental health professional regarding the potential danger the applicant may pose to public safety.

Finally, as to the concern that requiring documentation of restoration is too burdensome to individual applicants whose states do not have a formal restoration process, the final rule provides two remedies. First, it defines the required documentation as that showing "discharge from commitment, restoration of mental competency, or restoration of rights" (at § 107.10(g)(5)), which is a broad definition that captures a wide range of applicant scenarios. Second, the final rule (at § 107.10(f)) provides the opportunity for an

applicant who is unable to obtain such documentation, due to reasons beyond the applicant's control, to submit a sworn statement in its place.

I. Application Processes and Applicant Requirements

Many comments on the IFR received prior to the release of the NPRM suggested application requirements that have been obviated or superseded by the release of the NPRM. For example, some comments urged the quick release of a complete rule and a mechanism for applying for relief from disabilities. By issuing this final rule, the Department is providing such a mechanism.

1. Proposed Application Procedures

Comments Received: Commenters on the NPRM were broadly supportive of a formal application process and were eager to start the process as soon as possible. The majority of commenters on this topic preferred an online application form that is transparent, streamlined, and readable so that applicants can navigate it without excessive confusion or unnecessary legal costs. For example, one commenter stated: "Please make an online submission process as easy as possible." Commenters supported various design elements, such as check boxes to enable quick review and fast-tracking of certain cases or status trackers so applicants can monitor progress. Many individual commenters were excited for the initiation of the process, stating "I [would] like to be informed when the application is available," and "[H]ow do I get the ball rolling with an application?"

Department Response: The Department agrees with commenters who suggested an accessible online portal for applicants to use to submit their applications. The Department anticipates launching a portal following the issuance of this rule, but the final regulations do not include any specific language regarding a web portal, thus allowing for appropriate flexibility in the means of accepting applications.

2. Potential Burden of Application

Comments Received: Many commenters focused on the particular requirements outlined in the NPRM, opining that many of the items required of applicants are too burdensome. For example, one commenter said the proposed rule's "extensive documentation, \$20 fee, and lack of expungement eligibility create undue obstacles." Some commenters suggested that requiring three character references was an undue burden on applicants who are introverted or prefer to protect

their privacy, and that such a requirement exceeds the Attorney General's authority under 925(c). At least one commenter suggested that requiring character references to provide the detailed information listed in the affirmations and to submit those references under penalty of perjury would dissuade many individuals from serving as references or prove an insurmountable barrier to many applicants. Some commenters expressed their belief that the complexity of the rule would necessitate the assistance of counsel, leaving individuals who lack the means to hire representation without a remedy, and at least one proposed the establishment of a relief fund to help indigent applicants. Several commenters opined that the required documentation would be duplicative of records already maintained by law enforcement, with one stating that the proposed rule "requires applicants to search for duplicative records . . . even though the Department of Justice, Bureau of Prisons, and U.S. Probation already maintain this information." Another commenter expressed a related concern regarding the requirement that court documents be certified, stating, "DOJ should lift its certification requirement for those documents the federal government *already maintains* virtually, and to which DOJ *already* has access via its own PACER system."

Department Response: The Department disagrees with those comments stating that the documentation requirements are unduly burdensome. To meet its statutory obligation to safeguard the public and make decisions consistent with the public interest in this process, the Department must ensure that its restoration decisions are based on accurate and sufficient evidence. All of the information requested from the applicant in the final rule is closely related to achieving this goal. Section 925(c) requires the Attorney General to review "the circumstances regarding the disability, and the applicant's record and reputation" in making his determinations. 18 U.S.C. 925(c). The statute thus requires a broad inquiry into the person's character and circumstances, and it is accordingly well within the authority of section 925(c) to require documentation of a person's prior disabling offenses or any other offenses demonstrating dangerousness and unlawful conduct; the circumstances surrounding the disability; the person's current status, propensity for violence, mental state, current or potential substance abuse,

and other criminal conduct; and other requested information.

Similarly, the collection of character references is an effective and appropriate means of assessing the applicant's record and reputation. The burden of identifying and persuading individuals to serve as references mirrors the requirements of a pardon application, one of the few other means of restoring an individual's federal firearms rights. In that context, the Department has viewed character references as a useful and effective means of assessing a person's adjustment following a return to the community after a conviction and the threat, if any, that individual poses to the community. For similar reasons, character references will prove to be an important part of the present process, and the Department has concluded that any burden associated with requiring such references is outweighed by the highly probative information those references can provide.

Next, although some commenters opined that the Department already has some or all of the potential applicant's relevant information in its possession, or can access the information more easily through other methods, this belief is incorrect regarding much of the information that is needed for the investigation. Although the Department may have access to certain federal records, many of the records needed for the restoration process are held by state, local, or tribal governments or authorities; other federal agencies or the federal courts; or foreign governments. The Department cannot necessarily access or easily obtain those records. Although the Department may have access to some small portion of records, efficient administration of this process will be better achieved if the Department collects this information from all applicants uniformly.

The Department must collect this information for the purposes of this process. The proposed collection conforms to the applicable law regarding information collection under the Paperwork Reduction Act, 44 U.S.C. chapter 35, and the Department intends to use the information received only for its allowable purposes.

In response to the comment regarding the burden of records certification, the Department appreciates the difficulty of obtaining certification of every single record required under the rule and acknowledges that not all localities may provide a certification option to the public. In recognition of this fact, the Department has amended the proposed rule; thus, the final rule at § 107.10(d) now allows for submission of digital

copies of both certified documents and true copies of uncertified documents as provided by the court or other government entity or official to the applicant. Further, the Department provides the opportunity at § 107.10(f) for an applicant who is unable to obtain the required documentation—e.g., documentation that has been destroyed or lost through no fault of the applicant or other similarly compelling reasons—to submit a sworn statement to that effect and continue the application. The Department expects these flexibilities to alleviate the burden identified by commenters.

3. Fingerprints

Comments Received: Commenters on this subject were split between those who supported the collection of fingerprints and those who believed that requiring fingerprints places an unreasonable burden on applicants. Those in favor of collecting fingerprints noted the usefulness of fingerprints for uncovering crimes an applicant may have committed, assessing risk, and protecting public safety. One commenter stated that, without fingerprinting, the Department would be incapable of truly determining whether an applicant poses a threat to public safety.

Those commenters opposing the collection of fingerprints described this requirement as an expensive, redundant, and burdensome barrier for those convicted of non-violent offenses to restore their Second Amendment rights: "Having to get certified copies of court documents, background checks, fingerprints and all the other stuff is too much of a process and too expensive." Other commenters wrote that fingerprints should be required only for those individuals convicted of violent crimes. Individual commenters also incorrectly assumed that law enforcement agencies already had fingerprints on file for all people with prior convictions and reasoned that asking applicants to provide duplicate copies was onerous and unnecessary.

Department Response: The Department appreciates all commenters' concerns. The Department's primary consideration in this process is to ensure that all its restoration decisions are aligned with the obligation to protect public safety and to act in the public interest. The collection of fingerprints is an important part of this review, as fingerprints offer one of the few reliable means of establishing the correct identity of an applicant, avoiding confusion between applicants with similar names and personally identifying information, and ensuring a

complete review of an applicant's criminal history that is known to the FBI. Employing these precautions before firearms rights are restored is consistent with public safety.

Further, the requirement to obtain fingerprints is no more stringent than the requirements of other federal firearms-related processes, such as the FBI's NICS Voluntary Appeal File ("VAF"), which collects fingerprints from individuals who have been denied in a NICS background check because their descriptive information matches a record that prohibits firearm possession or use.⁶³ The VAF collects fingerprints to avoid the recurrence of a previous erroneous match.⁶⁴ In addition, although ATF recently proposed eliminating the up-front fingerprint requirement for National Firearms Act ("NFA") responsible persons applicants (who only are rarely denied pursuant to a NICS check),⁶⁵ ATF did not propose to stop collecting fingerprints from GCA applicants because NICS denials occur when their descriptive information matches a record that prohibits firearm possession or use. ATF would still collect fingerprints from NFA applicants if there is a problem with their NICS checks. As with the VAF, ATF collects these fingerprints to avoid the recurrence of an erroneous match, thus demonstrating the utility of collecting fingerprints. Here, the Department has a strong interest in ensuring accurate identity matches at the beginning of the application process. Especially because the entire applicant pool is known to be prohibited from possessing or otherwise handling firearms, mistakes in identification that occur during this process could result in decisions based on erroneous information. Requiring

⁶³ FBI, *How We Can Help You: Challenges/ Appeals*, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics/requesting-reason-for-and-or-challenging-a-nics-related-denial> (last visited July 4, 2026). NICS background checks compare name and descriptive biographical information of an individual seeking to own firearms to the descriptive information in the records accessed by the NICS Indices. Individuals who have been denied have been found to be a descriptive match to a record that shows a firearms prohibitor exists. Erroneous matches are a possibility, but the submission of fingerprints helps reduce the risk of such matches. *See id.* ("It is possible your name, date of birth, or other descriptors closely match someone else with a prohibiting record or other prohibiting information. If you believe your NICS background check was erroneously denied for this reason, you may want to provide your fingerprints for comparison.").

⁶⁴ *See, e.g.,* FBI, *2025 Operational Report* (2025), <https://www.fbi.gov/file-repository/2025-nics-operational-report.pdf/view>. In 2025, the FBI identified that nearly 27 percent of challenges made in the VAF process were overturned, with the primary reason being a fingerprint comparison resolved an erroneous identity match. *Id.* at 12.

⁶⁵ *Id.* at 15.

submission of fingerprints helps to reduce this risk. Further, the Department is unaware of any widespread complaints that requiring the submission of fingerprints in connection with existing Department processes makes the completion of the relevant forms unduly burdensome.

4. Chief Law Enforcement Officer Notification

Comments Received: Commenters focusing on Chief Law Enforcement Officer (“CLEO”) notification were either strongly in favor or strongly opposed. Those in favor opined that notification could “facilitate access to the facts and records related to” a conviction giving rise to a firearms disability that would otherwise be unknown. Other commenters suggested additional appropriate notifications be mandated as well, including notification to law enforcement in prior localities where the applicant resided or had been arrested, to prosecutors or victims of an underlying disabling offense, to parole or probation officers who had supervised the applicant, or to individuals who sought a restraining order against the applicant. In their joint letter, the 16 states’ attorneys general opined that the definition of chief law enforcement officer was vague and recommended notification be made to “the state Attorney General, the local Police Chief, and the county Sheriff” to ensure an authority with knowledge of the applicant’s conduct would be notified. Several commenters focused specifically on applicants with prior domestic violence offenses, opining that a notification to law enforcement “is an insufficient proxy for the [notification of the] victim of domestic violence.” At least one of these commenters encouraged the Department to offer “victims of domestic violence the opportunity to share their experiences and feedback about the impact of firearm restoration on their safety.” This commenter recognized the “challenging” logistics of victim notification, including the mobility of Americans, but recommended collaboration with state victim notification systems to achieve greater success in notifying victims.

Those who opposed notifications to the CLEO opined that notification may have a “chilling effect” for applicants or allow “arbitrary vetoes” to upset a person’s otherwise strong application. Others opined on the potential bias of local enforcement, with some preference expressed for neutral, federal arbiters.

Department Response: The Department appreciates the varied views on this topic. The final rule

removes the obligation of the applicant to notify the CLEO in the applicant’s jurisdiction. Instead, the Department itself intends to notify these officers. Notably, the Department is currently obligated to issue similar notifications to state, local, or tribal law enforcement entities within 24 hours after a prohibited person attempts to purchase a firearm but is denied by the NICS.⁶⁶ The Department intends to utilize these existing notification channels to send such notices to the CLEO in the ZIP Code where the applicant currently resides. The final rule, however, does not outline the specific method of notification so as to retain maximum flexibility and efficiency in the notification process.

Like the process envisioned by the NPRM, the final rule allows for the possibility of, but does not mandate, input from CLEOs on the appropriateness of restoration for the applicant. This approach should help to avoid any concern that the CLEOs are given a “veto” of an otherwise strong candidate for restoration.

Regarding public comments that additional authorities should be notified of an individual’s application, the Department intends to adopt the same notification requirements that the FBI must follow when persons seek, but are denied, a firearms purchase. The Department has determined that this notice, which has been sufficient to inform law enforcement about the attempt of a person under disability to purchase a firearm, is likewise sufficient to ensure that the authorities who are likely to have the best knowledge about an applicant’s conduct in the years preceding the application are the ones who are notified. Also, beyond notification, the application process provides a mechanism for the notified law enforcement personnel to submit comments to the Department on the suitability and appropriateness of firearms restoration, adding important information to the material the Attorney General may review before deciding on an application.

Next, regarding the concern that notification to the CLEO is an insufficient substitute for notification to victims who may wish to comment on the application, the Department notes that this final rule outlines only the notifications mandated by the rule; it does not bar other types of notifications from being made, which could include collaboration with state victim notification systems if appropriate. The

final rule creates a floor of notification in every case, rather than a ceiling. Nothing in the final rule would prevent the Attorney General from seeking and reviewing input from a victim should he require that information in any particular case. Mandating victim input in every case where a victim is present (or even in a smaller subcategory, such as cases involving domestic violence offenses) would be logistically infeasible because victims—unlike CLEOs—do not necessarily have public contact information readily available to facilitate the notification. Also, in many cases, comments from victims would not be material to the Attorney General’s review of an application—for instance, where the rest of the information in the application makes clear the application should be denied. Soliciting victim input for all applications could thus unnecessarily require victims to revisit the traumatic experiences associated with the applicant’s disqualifying offense. Finally, the Department is mindful that a mandatory solicitation of input from victims, and particularly domestic violence victims, could result in inappropriate coercion or retaliation should the victim not be supportive of the applicant’s request. Accordingly, the final rule suitably balances the appropriateness of victim input in certain cases with the logistical and other difficulties of seeking that input in all cases, including those in which such input may not be necessary.

5. Locality Arrest Records and Court Documents

Comments Received: Commenters noted the burden of submitting locality arrest records and records of dated convictions, citing paperwork destruction schedules, potential burdens on courts and other state agencies, and the difficulty of recalling all localities in which an arrest may have occurred. Some also noted the expense of obtaining such records. Multiple commenters restated the incorrect conclusion that this requirement is entirely duplicative of information already accessible by the Department. At least one commenter noted the difficulty of satisfying the proposed rule’s requirements for individuals in the military, who may have been stationed in many locations. Finally, at least one commenter suggested there was ambiguity in the term “resided,” which the final rule should clarify.

Department Response: The Department appreciates the concerns of commenters who argued that the provision of state or locality arrest records would be expensive, time-

⁶⁶ Consolidated Appropriations Act, 2022, Public Law 117–103, sec. 1101, 136 Stat. 49, 919–20 (codified at 18 U.S.C. 925B).

consuming, and unnecessary. The Department, however, disagrees that these burdens are unnecessary or that they outweigh the associated benefits. The Department's obligation to ensure public safety and act in the public interest demands that the Department collect and evaluate these records from applicants. First, the Department has confirmed that statewide criminal checks (the state equivalent of a local arrest record) are available from state officials in all states; thus, individuals in all states can obtain records of their own arrests by applying to obtain such information from a state agency. This should address many burden concerns associated with the need for applicants to request and collect criminal checks in multiple jurisdictions because an applicant will be able to quickly collect information from across different states. In the rare circumstance that an individual is unable to obtain a statewide report, the final rule allows for the submission of local reports.

Second, review of an applicant's criminal record is critical to assessing an applicant's likelihood to act in a manner dangerous to public safety. The Department does not have automatic access to all state or local arrest records. States and localities are not required, and do not uniformly volunteer, to report all criminal conduct that occurs within their jurisdiction to the federal government. As such, the Department has access only to information reported by federal entities or voluntarily reported by states and localities. Without the requirement that applicants provide records from state or local criminal checks, the Department's understanding of a person's criminal history would be incomplete.

Further, the Department has identified a need to collect materials on foreign convictions, foreign mental health adjudications, and unfavorable discharges from foreign military service. Such documentation will allow the Attorney General to reach well-informed decisions on restoration applications with the most probative available information. Thus, to facilitate the Attorney General's decision, the final rule at § 107.10(e) & (g)(12) requires documentation regarding foreign conduct, as well as a translation of such documentation, as appropriate. To ensure that the Attorney General has sufficient information to reach the reasoned and informed decisions required by the GCA, while also balancing the burden on the applicant, the Department will collect and review such information as one facet of the application review.

Finally, with respect to potential burdens on state and local agencies, the Department notes that no state or local government entities submitted comments indicating that the document requirements outlined in this rule would place undue burdens on them. Instead, concerns about burdens on these agencies came from individual commenters who were speculating on potential burdens. Because no state or local government entities expressed a concern about undue burdens, the Department does not believe that any changes to the rule on that basis are warranted.

6. Additional or Alternative Procedures

Comments Received: Some commenters also proposed additional or alternative procedures for the application process. Many commenters urged the Department to include a timeline for issuance of decisions in the final rule to avoid "unnecessary" delays. Proposals included 30-, 60-, or 180-day timelines. Others urged an internal appellate process. Some, including the 16 states' attorneys general who submitted a joint letter, suggested providing more information regarding the backgrounds of the persons who will be adjudicating the decisions in these cases. This same group proposed that every decision reached by the Department be accompanied by an opinion that summarizes (1) the information reviewed; (2) the applicant's disability; and (3) the applicant's criminal history and rehabilitation, while also recommending that the materials utilized in the review be broadly disclosed in response to appropriate Freedom of Information Act ("FOIA") requests. One individual suggested that applicants attend firearms training courses, that the Department provide ongoing public commentary on disqualifying offenses, and that the application mandate community service before restoration is granted. Some commenters opined that a neutral review panel should arbitrate each application. Multiple commenters opined on the potential use of artificial intelligence ("AI") to issue decisions, either in denying or granting relief, and asked the Department to ensure that any use of AI be accompanied by human review. Finally, at least one commenter requested regular reporting on decisions based on various aggregated metrics like region, type of offense, and average processing times, while also ensuring security and privacy for the individual applicant.

Department Response: Regarding the additional or alternative procedures

proposed, the Department notes that many of the suggestions already align with the Department's intended internal processes. However, the Department believes that not all internal processes need to be memorialized in a federal regulation. Because this rule's version of the section 925(c) program is new, the Department anticipates that internal procedures and best practices will evolve as the Department considers efficiency, resource-allocation, and the types and frequency of factors that arise in applicants' requests. Rendering every process immutable absent a change in the governing regulations would unnecessarily prevent the Department from implementing process changes that will better serve the public going forward. To preserve an appropriate degree of flexibility in the Department's internal procedures, the Department declines to include rigid, extra-statutory processes (such as fixed timelines or specific data reporting requirements) in the final rule. As required by statute, the Department affirms that the guiding principle of this process will be the Attorney General's duty to determine that any applicant granted relief is not likely to act in a manner dangerous to public safety and that granting of relief will not be contrary to the public interest.

Nevertheless, the Department will address common suggestions from the public on this topic. The Department disagrees with commenters who suggested that an administrative appellate process is necessary. Section 925(c) explicitly includes a judicial remedy for anyone who is denied relief: "Any person whose application for relief from disabilities is denied by the Attorney General may file a petition with the United States district court for the district in which he resides for a judicial review of such denial." The judicial process provides an adequate remedy for anyone whose application is denied, and the addition of an internal layer of appellate review would only complicate and slow an already complex administrative process.

The Department also declines to commit itself to particular timeframes for the issuance of decisions. The comments on this topic suggested that the Department may artificially delay decisions for "unnecessary" reasons. Decision times on individual applications will naturally vary significantly based on the complexity of the facts of the case; the availability of information; the completeness of an application and the responsiveness of an applicant to supplemental requests for information; the responsiveness of partner government entities; and the

volume of applications received. Many of these factors are outside of the Department's control. Also, it is to be expected that timeframes during the initial launch of the application may be somewhat lengthier. Setting a timeline for decisions at this stage would be premature and speculative.

Although the Department agrees with the 16 states' attorneys general that some written explanation regarding the basis for each decision should be issued, it disagrees with the level of specificity envisioned by that group. To properly apprise the applicant of the basis of the decision and to establish sufficient judicial record for any potential challenges, the Department will issue letters of decision in every case in which the application has been fully completed; the application has been accepted for review; and the Attorney General has rendered a decision. Inevitably, though, those letters will vary in detail and degree based on the nature of the decision. Practice and practicality demand the production of these letters of decision in cases subject to litigation, and the Department does not, at this time, find it prudent to include language in the regulation that may limit its discretion to vary the form or substance of such letters as appropriate. The Department also will follow any FOIA obligations it has regarding these records.

As to the comment the 16 states' attorneys general made regarding the publication of the backgrounds or identities of those persons tasked with assisting the Attorney General to decide applications, the Department will comply with any FOIA obligations it may have in the future regarding records of these individuals. Also, although the Attorney General will naturally require assistance in deciding on applications, any decision will ultimately reflect the opinion of the Attorney General himself. See § 107.10(b) (describing the information "the Attorney General" will consider when evaluating an application). Properly appointed inferior officers within the Department may be delegated all tasks associated with the execution of the process outlined in this final rule, but nothing in such a delegation would deprive the Attorney General of his authority to oversee the process and make the final decision on any individual application.

The Department also disagrees with the commenter who suggested that applicants complete mandatory firearm training or community service prior to restoration of firearms rights. The Department reiterates that the guiding principles of the Attorney General's decision-making in this process are the

statutory considerations outlined in section 925(c): whether an applicant poses a danger to public safety and whether restoration would be contrary to the public interest. It is the Department's view that training or community service requirements do not speak to those principles directly enough to warrant imposing such requirements. Said otherwise, a person may be able to demonstrate that handling firearms would not endanger the public or be contrary to the public interest even without completing a formal firearms safety course or community service project; imposing such a requirement on all applicants would thus sweep more broadly than what section 925(c) requires. Focusing on the statutory standard will enable the Department to restore individual firearms rights to applicants who satisfy the criteria set by Congress.

Regarding commenters' request that the Department publicize statistical data regarding this program, the Department may publish anonymized, aggregated data regarding applications and its decisions. However, the Department declines at this stage to commit to any particular data sets or queries to allow for flexibility as it assesses what information best facilitates transparency without creating undue administrative burdens.

Finally, the Department appreciates the many comments regarding the use of AI in this process. Consistent with the Department's obligation to ensure individual review of each application, the Department intends to utilize AI in a low-impact manner and to abide by the requirements outlined by the Office of Management and Budget ("OMB") and the Administration.⁶⁷ The use of AI will assist the Department in intake, prioritization, or other preliminary matters, and the Department will abide by OMB's requirements for use of AI in the review of any application. The use of AI will be accompanied by human review.

J. Miscellaneous Application Provisions

1. Firearms Licensees

Comments Received: Commenters who focused on the rule's impact on firearms licensees asked for small adjustments to the rule to achieve what they viewed as possible improvements for public safety. One group noted that

the NPRM identified the Attorney General as the person making decisions on firearms operation renewal licenses, including those filed by a licensee during the pendency of a removal of disabilities application, and asked that the power to deny these renewal applications remain with ATF. Another commenter opined that, because there are no time limits for decisions on restoration applications, allowing firearms licensees to maintain operations during the pendency of a restoration application could result in effectively perpetual grace periods for operation. Finally, the 16 states' attorneys general asked that the final rule make clear that the restoration of firearms rights does not automatically include the right to become a firearms licensee or manufacturer, and that any applications to become a licensee or manufacturer will be scrutinized for risks to public safety.

Department Response: The Department agrees that decisions on federal firearms renewals for licensees should remain with ATF and has amended the final rule at § 107.30(b)(4) to clarify as much. Also, the Department is cognizant of commenters' concern regarding licensees' business operations during the pendency of a relief application but notes that the plain language of section 925(c) demands such a grace period, requiring that a licensee "who makes application for relief from the disabilities incurred under this chapter, shall not be barred by such disability from further operations under his license pending final" decision on his application. The statute does not provide a timeframe for decisions in these cases, nor does it impose a requirement that the Department expedite its process in these cases. Consistent with the statute, and for the reasons stated above, the Department continues to decline to commit itself to timeframes for decisions. Nevertheless, the Department does intend to collect information regarding whether an applicant is a firearms licensee on the application itself, allowing it to identify licensee applications at the initial stages of the process, and to provide ATF with notice of the application as soon as practicable. These strategies of early identification and notice should help inform the Department's decisions regarding the resource allocation most suitable for safeguarding public safety. Finally, the Department agrees with the 16 states' attorneys general that a restoration of federal firearms rights does not automatically entitle the recipient to a license. Individuals or entities seeking

⁶⁷ Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Memorandum M-25-21, *Accelerating Federal Use of AI through Innovation, Governance, and Public Trust* (Apr. 3, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-21-Accelerating-Federal-Use-of-AI-through-Innovation-Governance-and-Public-Trust.pdf>.

to become a firearms licensee will continue to apply to ATF for adjudication of their applications.

2. Expungements

Comments Received: Most of the commenters who discussed expungements or orders setting aside a conviction focused on their personal experiences or difficulties with the state restoration process. However, some commenters encouraged the Department to accept state expungements, pardons, or certificates of rehabilitation as evidence supporting a presumptive or automatic restoration of federal firearms rights. Other commenters asked that applicants be required to share with the Department the outcome of any similar or related state restoration of disability process as evidence relevant to the Department's adjudications. Finally, some commenters opined on the difficulty of obtaining records related to convictions that have been expunged, sealed, or set aside.

Department Response: The Department intends to ask for information regarding previous convictions that have been expunged or set aside; pardons; restorations of rights; and certificates of rehabilitation in the application for relief and may request additional information on this topic from an applicant if the information is deemed helpful to the investigation of the application. The information provided by the applicant will be considered by the Attorney General in his assessment of the appropriateness of restoration. If a document containing the information is unavailable, the final rule at § 107.10(f) provides an opportunity for the applicant to submit a sworn statement in place of the required document.

3. Revocation

Comments Received: Commenters opining on the Attorney General's ability to revoke previously restored federal firearms rights were split between those who thought revocation was a sensible precaution and those who believed doing so would exceed the statutory authority granted by section 925(c) or that the power could be abused by future Attorneys General, particularly if there is no relief mechanism to challenge the revocation. Those who supported a revocation mechanism emphasized the importance of revoking firearms rights restoration for individuals who commit new offenses, become subject to a protective order, or engage in fraud in the restoration process. Another commenter proposed that the Department adopt a revocation provision like North

Carolina's, which permits revocation solely for new offenses and prevents any subsequent restoration.

Regarding potential abuses, commenters expressed concern that people could be wrongfully indicted in order to effectuate revocations. Other commenters asked the Department to address potentially fraudulent activity by applicants through perjury prosecutions rather than revocation. At least one commenter posited that "a future anti-firearms administration [could] engage in wholesale revocations of relief from recipients."

Department Response: The Department appreciates the public's comments on the topic of revocation. The final rule at § 107.80 now mandates the voiding of a federal firearms restoration if it is found that the applicant "willfully subscribed as true any material matter which he does not believe to be true or willfully omitted any material requested information." In contrast to some commenters' fears, this provision does not give a future administration the ability to implement widespread revocation of firearms rights; instead, it is a narrowly tailored remedy that supports the Attorney General's substantial interest in ensuring accuracy, completeness, and candor in the application process. The Department also disagrees that the power to void a restoration based on fraud exceeds the Attorney General's authority under section 925(c). Courts have found that Congress's grant of power to decide the outcome of applications in the first instance necessarily includes the power to reconsider those decisions, recognizing that for executive agencies, "[t]he power to reconsider is inherent in the power to decide."⁶⁸

The Department need not expand this fraud-based revocation provision to include revocation based on new criminal offenses or disabling conduct, such as a new conviction or a new protective order against an individual. This is because the new offense or other conduct would be an independent basis for disability that would prevent firearm possession from that point forward. Revocation in that instance would be superfluous.

K. Economic Impact

Comments Received: A few commenters focused on the economic impact of the rule. They noted the rule's requirements may burden state or

federal record-keeping agencies without providing for a committed revenue stream to help offset some of the cost burden. These commenters maintained that the Department should withdraw the rule to perform a full cost analysis on the burden to localities under the Unfunded Mandate Reform Act ("UMRA") and to check for "RFA Non-Compliance." (Presumably, the commenter was referring to the Regulatory Flexibility Act.) Others expressed concern that the reliance on user fees, without other dedicated revenue streams, will create "operational instability," and they asked the Department to request funding from Congress for the application process. Some commenters also drew attention to the Department's estimation of both the amount of money required to fund this process in the first year (\$20 million) and the number of potential applicants projected in the first year (1 million). These commenters went on to state that, if these projections were accurate, the staffing levels identified by the Department would be insufficient to investigate all submitted applications.

Department Response: The Department's conclusion regarding the final rule's impact on states and localities under the UMRA is unchanged from the conclusion offered in the proposed rule's preamble. Despite some commenters' concern that this process will require significant investment from states or localities, the Department maintains that it will not. Although the final rule requires interaction with states and localities, the burden of obtaining paperwork from these locations is on the applicant, and the locality may charge the applicant a fee to cover the cost of providing the materials requested. Further, the requirement to provide arrest records and court documents is a long-established feature of numerous other processes currently in effect, such as those undergone by job applicants, those seeking expungement of convictions, those applying for grants, those seeking pardons, those seeking firearm approval under the NFA, and myriad others. None of the final rule's document requirements is unique or novel, nor do they require additional investment or expenditure by states or localities.

Similarly, the requirement for CLEO notification does not burden states or localities in violation of the UMRA. First, this notification process is similar to notification requirements used by ATF. For example, ATF notifies CLEOs in its non-over-the-counter ("NOTC") sales process, addressing sales in which a federal firearms licensee sells a

⁶⁸ *Albertson v. FCC*, 182 F.2d 397, 399 (D.C. Cir. 1950); see also, e.g., *Macktal*, 286 F.3d at 825–26; *Belville Mining Co. v. United States*, 999 F.2d 989, 998 (6th Cir. 1993).

firearm to a person who does not appear in person at the licensee's place of business.⁶⁹ In those notifications, a licensee will provide the CLEO with a sworn statement from the transferee of a firearm and a description of the firearm to be transferred, and allow seven days for a response before completing the transaction.⁷⁰ Second, the final rule provides that the Department will notify the CLEO of the fact of application, but, importantly, the CLEO is not required to respond. Thus, this notification will consume only those resources the state or locality voluntarily chooses to expend on its response.

L. Fees

Comments Received: A few individuals suggested that the proposed fee was too low and that a higher fee (proposed values ranged from \$100 to \$300) would be appropriate. Conversely, at least one organization dedicated to defending individual gun rights argued that because the GCA specified statutory fees for other processes, the lack of such a provision in section 925(c) forecloses the imposition of a fee here. Instead, this group encouraged the Department to establish a legal aid fund to support indigent individuals seeking this relief.

At least one commenter criticized the Department's estimate in the NPRM that 1 million applications for relief within the first year of the program as unreasonable, asserting that no more than 100,000 people would apply.

Department Response: The final rule refines the fee estimates and the estimate of the number of likely applications underlying the fee structure proposed in the NPRM, as explained in the next section. The Department also acknowledges the concern regarding its legal authority to charge fees in relation to this application but disagrees that it lacks legal authority to do so. Its decision to collect fees is authorized by 31 U.S.C. 9701, which provides that the "head of

each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency," so long as those fees are "fair" and are based on the costs to the government, the value of the service to the recipient, the relation to public interest, and other pertinent considerations. In issuing this final rule, the Department has chosen a fee amount that satisfies these statutory obligations.

The Department also recognizes that some commenters have expressed concerns about appropriate staffing levels to address the anticipated influx of cases. The Department recognizes that the projected estimate for incoming cases is significant. It has accordingly requested additional personnel in its upcoming fiscal year budget, is pursuing the acquisition and development of sophisticated case-management software to improve process efficiency, and is leveraging intra-Departmental resources to maximize existing infrastructures and protocols.

M. Severability

Although the Department did not identify significant comments on the issue of severability, the Department maintains that the provisions of this rule can function independently. Therefore, in the event that any provisions in this rule are invalidated by a reviewing court, the Department intends the remaining provisions to remain in effect to the fullest extent possible.

IV. Cost Benefit Analysis

A. Summary of Costs

This rule requires individuals seeking restoration of their federal firearms rights to submit documentation to the Department to ensure that restoration of firearms rights to that individual is aligned with public safety and is not contrary to the public interest. As demonstrated by the public comments on the NPRM, the Department anticipates significant interest in this process. Predicting the likely number of applicants, however, is difficult for several reasons. First, although a process for reviewing section 925(c) applications was previously in existence, that prior process has been defunct for over 30 years. Any estimates of numbers derived from that process would have little predictive value for the current anticipated process. Second, as of May 31, 2026, there were over 31 million active NICS Indices identifying records showing a federal prohibitor.⁷¹

This number far exceeds relevant populations for analogous state restoration processes, so those processes are not an ideal analog from which to extrapolate how the restoration process in this final rule will operate.

In the NPRM, the Department estimated that 1 million individuals would apply for relief based on a rough approximation of the number of NFA applications received by ATF in the course of a year.⁷² The Department chose this comparison due to the similar subject matter, even though the processes are not directly analogous. Public comments questioned this estimation, and, in response, the Department is modifying its approach as described below. The Department now estimates a total cost of approximately \$74.30 million annually for individuals to review the rule and to gather, procure, and submit information to the Department; and for the Department to review the applications it receives. (This figure consists of approximately \$59.8 million in costs for individuals and \$14.5 million in costs for the Department.) The rule has public safety benefits in that the rule will enable the Department to ensure that applicants receive firearm restoration only if restoration would not be dangerous to public safety or contrary to the public interest.

1. Methodology for Determining Costs

The Department estimated the cost of ensuring that the Attorney General will grant relief consistent with his statutory obligations by: (1) estimating the time and other resources that applicants would expend to complete paperwork, obtain fingerprints, and send this information to the Department; and (2) estimating the time and other resources that the Department would expend to process, review, and investigate applications. To start, the Department estimated the cost of the time for individuals to complete these tasks using employee compensation data for June 2025 as determined by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"). See BLS, *Employer Costs for Employee Compensation—June 2025* (Sept. 12, 2025), <https://>

(identifying over 34.7 million entries in the NICS system). Please note that approximately 3 million records cited in the NICS Indices are cited as being state prohibitors. Because there may be overlap between prohibitor categories, and because people can have multiple prohibitors, it is impossible to determine precisely how many people are prohibited.

⁷² ATF, *Firearms Commerce in the United States: Statistical Update 2024* 9 (2024), <https://www.atf.gov/resource-center/docs/report/2024firearmscommercereportpdf/download> (providing yearly applications processed).

⁶⁹ Revising Non-Over-the-Counter Firearms Transaction Requirements, 91 FR 25216, 25217 n.3, (May 8, 2026).

⁷⁰ Although ATF recently proposed removing the CLEO notification from other processes, such as its NFA application process, see Removing CLEO Notification Under the National Firearms Act, 91 FR 24471 (May 6, 2026), the basis for that removal is unrelated to any concerns that the requirements are inconsistent with the UMRA, and, indeed, ATF previously determined that the NFA CLEO requirements do not violate the UMRA. See *Machinereguns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Trust or Legal Entity With Respect To Making or Transferring a Firearm*, 81 FR 2658, 2695–95 (Jan. 15, 2016) (explaining why the notification requirements did not create an unfunded mandate under the UMRA).

⁷¹ FBI, *Active Entries in the NICS Indices* (May 31, 2026), https://www.fbi.gov/file-repository/cjis/active_records_in_the_nics-indices.pdf/view

www.bls.gov/news.release/archives/ecec_09122025.pdf. The BLS determined that hourly compensation (which includes wages, salaries, and benefits) is \$48.05 for civilian workers and \$63.94 for state and local government workers.

Although the Department believes that any estimate of the likely number of applicants will be somewhat speculative, the Department is now electing to use data from calendar year 2024 (“CY2024”) regarding the number of denials issued by the NICS Section for firearm disqualification to estimate the potential number of applications it will receive in the first year.⁷³ This data is relevant because it involves a similar pool of individuals, *i.e.*, persons who are prohibited from owning firearms but who have made attempt to purchase one; presumably, this group of people will overlap somewhat with the applicant pool for the federal restoration process.

In CY2024, approximately 1.1 percent of checks processed by the NICS Section, or 110,505 checks, were denied.⁷⁴ In the preceding two years, similar percentages of persons were denied.⁷⁵ The Department has concluded that the section 925(c) applicant pool in the first year may be similar in size to the pool of denials issued by the NICS Section in the past three years. Accounting for data from three years of NICS checks (rather than a single year) helps account for the pent-up demand for federal firearms rights restoration that likely exists as a result of the Department not having a functioning restoration process for quite some time. Using three years of data, and extrapolating from CY2024 numbers, the applicant pool in the first year would be 331,515 applicants. Although the Department cannot predict with certainty how many applications it may receive, given the long defunct status of the prior process and the number of persons who were disabled

but sought to purchase a firearm in the last three years, 330,000 is not an unreasonable estimate for the first year of the program.

Next, the Department identified the cost of complying with the final rule’s requirements by estimating the cost of undertaking each of the steps necessary to complete an application. Under this final rule, an individual is required to complete the following steps before an application can be considered: (1) complete and submit the application form; (2) submit fingerprints; (3) gather and submit required documentation; and (4) solicit three character references, who must submit references on the applicant’s behalf.

2. Cost to Individuals of Applying for Relief From Disability

a. Time Cost of Completing an Application

The final rule requires individuals to complete and submit to the Department an application form, fingerprints, documentation of the disability and arrest records, and three references. The information requested is necessary to evaluate whether restoration of firearms rights to the individuals would be contrary to the public interest or raise public safety concerns. The Department estimated the time for familiarization and review of the rule to be 15 minutes and the time for each applicant to complete the application to be 30 minutes, exclusive of the costs of document collection and fingerprinting, assessed separately below.⁷⁶ Based on an estimate of 330,000 applicants, the estimated time cost for applicants to familiarize themselves with the rule and complete the form is \$11,892,375 (45 minutes at \$48.05 per hour/60 × 330,000).

b. Fee

In response to comments that the proposed \$20 application fee is too low, and after considering the factors specified in 31 U.S.C. 9701(b), the Department has adjusted the fee to \$30 to assist in funding the restoration process. The \$30 fee will help supplement current and future budgetary requests from the Department office operating this process. The precise operating costs of the program cannot be calculated with certainty

beforehand, given that an operative program has been defunct for over 30 years. Accordingly, within two years of the program’s full operation, the Department will audit operational costs to support a more precise fee calculation. In the interim, the Department is collecting a \$30 application fee to appropriately balance the need for an accessible program widely available to the public with the Department’s interest in having operational costs of the program supported by fee collection. The estimated cost of the fee to the applicant pool will therefore be \$9,990,000 ($\$30 \times 330,000$ applicants). This \$9,990,000 fee collection is estimated to be approximately 65 to 70 percent of the \$14,510,100 cost to the Department for initial processing of these applications (as identified in the “Cost to the Department” section of this analysis, below) and will be supplemented by the internal realignment of existing Department appropriations to support the 925(c) application process.

c. Cost of Fingerprints

The cost of procuring fingerprints through the U.S. Postal Service (as will be required initially in the section 925(c) process), is \$50.⁷⁷ Further, the estimated time needed to obtain the fingerprints is 10 minutes.⁷⁸ Based on an estimate of 330,000 individuals, the current estimated monetary cost is \$19,142,750 ((Monetary Fingerprint Costs: $\$50 \times 330,000 = \$16,500,000$) + (Time Cost of Fingerprints = 10 minutes at $\$48.05/\text{hour}/60 \times 330,000 = \$2,642,750$)).

d. Cost of Court Records and State Arrest Records

Individuals applying for relief from disability must provide to the Department documentation on the nature of the disability or disabilities the person is currently under. Those documents may include court records, records from state or federal agencies,

⁷³ FBI, 2024 Operational Report iii (2024), <https://www.fbi.gov/file-repository/2024-nics-operational-report.pdf/view>.

⁷⁴ *Id.* The NICS Section processed over 9.2 million checks in CY2024 and denied 110,505. This tally includes only checks performed by the NICS Section and does not include checks performed by state users of the NICS or checks that were overturned on appeal under the Firearm-Related Challenges (appeal) process. See FBI, *How We Can Help You*, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics/voluntary-appeal-file> (last visited July 4, 2026).

⁷⁵ See FBI, 2023 Operational Report iii (2023), <https://www.fbi.gov/file-repository/cjis/2023-nics-operational-report.pdf/view> (reporting denial of approximately 1 percent of checks); FBI, 2022 Operational Report 20–21 (2022), <https://www.fbi.gov/file-repository/cjis/nics-2022-operations-report.pdf/view> (reporting denial of approximately 1.2 percent of checks).

⁷⁶ Due to the variety and types of documentation an applicant may submit, the different disabling predicates from which an applicant could be seeking relief, and other factors involved in the analysis, costs will vary from applicant to applicant; the Department based its calculations in this rule on a representative applicant with one prior disabling conviction and one locality arrest record.

⁷⁷ U.S. Postal Serv., *USPS Fingerprinting Services Registration*, <https://ips.usps.com/IdentityCapture> (last visited July 4, 2026). Although the U.S. Postal Service does not currently offer this service in every USPS location, services are available in every state. The Department will accept fingerprints submitted exclusively through the U.S. Postal Service when first implementing this final rule.

⁷⁸ This estimate aligns with recent estimates of the FBI on use of similar fingerprint collections. See Agency Information Collection Activities; Proposed eCollection eComments requested; Title—Friction Ridge Cards: Arrest and Institution FD–249; Applicant FD–258; Identity History Summary Request FD–1164; FBI Standard Palm Print FD–884; Supplemental Finger and Palm Print FD–8884a; Voluntary Appeal File Fingerprint FD–1212; Firearm-Related Challenge Fingerprint FD–1211; Restoration of Federal Firearm Rights Fingerprint FD–1222, 90 FR 52703, 52704 (Nov. 21, 2025).

arrest records, certifications from licensed mental health professionals, and military records. The type of records an individual applicant provides will vary, and the Department acknowledges that the individual cost for some applicants, such as those with multiple disabilities from multiple jurisdictions, may be somewhat greater than for other applicants. However, calculating the total cost of producing court records based on a hypothetical world in which each applicant has one prior conviction and arrest records from one locality resulted in a total cost of \$8,292,900. The Department estimated the average cost of documentation to be \$12.00.⁷⁹ (Cost of court documentation:

\$12.00 × 330,000 = \$3,960,000). The Department further estimated the average cost of obtaining a local arrest record check to be \$13.13.⁸⁰ (Cost of arrest records: \$13.13 × 330,000 = \$4,332,900). The estimated cost could be lower if the individual already possesses these materials.

The Department also estimated the time costs of obtaining these materials to be only 5 minutes for each document, as many jurisdictions have online portals from which applicants can easily and quickly make such requests.⁸¹ Based on a total of 10 minutes to obtain one court record and one locality arrest record, the Department estimated a total cost of \$2,642,750 (10 minutes × \$48.05/

hour/60 × 330,000 = \$2,642,750). The estimated cost could be lower if the individual already possesses these materials.

e. Time Cost of Completing References

An individual applying for relief from disability must provide to the Department three references in support of the application. The Department estimated that each reference will need approximately 10 minutes to complete a referral. The total estimated cost for references is therefore \$7,928,250 (10 minutes at \$48.05/hour/60 × 990,000 references [3 references × 330,000 applicants] = \$7,928,250).

TABLE A(1)—COST ESTIMATES OF THE TIME TO COMPLY WITH THE FINAL RULE'S REQUIREMENTS

Process-related item	Estimated time (minutes)	Number of individuals	Cost (\$48.05/hour)
Rule Familiarization	15	330,000	\$3,964,125
Form Completion	30	330,000	7,928,250
Fingerprinting	10	330,000	2,642,750
Document Collection	10	330,000	2,642,750
References	10	990,000	7,928,250
Total	75	.....	25,106,125

TABLE A(2)—COST ESTIMATES OF THE FEES, PROCURING FINGERPRINTS, AND DOCUMENTATION

Process-related item	Estimated cost	Number of individuals	Cost
Fee	\$30.00	330,000	\$9,990,000
Fingerprinting	50.00	330,000	16,500,000
Court Record Collection	12.00	330,000	3,960,000
Arrest Record Collection	13.13	330,000	4,332,900
Total .....	.....	.....	34,782,900

3. Cost to the Department

The Department will incur costs to process forms and fingerprints and to investigate applications. Although the novelty of the process leaves the Department unable to provide an exact estimate of the total labor costs associated with the process outlined in

this rule, the Department has attempted to estimate a fee that will cover a significant portion of the anticipated costs. These costs include fingerprint processing and initial intake by staff within the Office of the Pardon Attorney.⁸²

The Department estimated that the cost to the FBI to process a set of

fingerprints is \$12.00; this estimate was based on the FBI's current fingerprint processing fee, which in turn is set on a cost-recovery basis.⁸³ The estimated cost for an examiner to intake and review the application materials and determine next steps in the process is \$31.97 (30 minutes × \$63.94 per hour/60).⁸⁴ Based on an estimate of 330,000

⁷⁹ U.S. Courts, *District Court Miscellaneous Fee Schedule* (Dec. 1, 2023), <https://www.uscourts.gov/court-programs/fees/district-court-miscellaneous-fee-schedule>. The Department intends to accept only electronic documents to begin in this application process and so does not include costs for copying of paper records in its estimates.

⁸⁰ The Department averaged the costs of obtaining arrest records by comparing low-end costs in four localities: \$17.50 in New York State (New York State, Div. of Crim. Just. Servs., *Requesting Your New York State Criminal History*, <https://www.criminaljustice.ny.gov/ojis/recordreview.htm> (last visited July 4, 2026)); \$10 in Texas (Tex. Dep't of Pub. Safety, *Crime Records Services FAQ's* (2026), <https://www.dps.texas.gov/section/crime-records/faq/crime-records-services-faqs> (last visited July 4, 2026)); \$15 in Oklahoma (Oklahoma State

Bureau of Investigation, *How to Request a Criminal History Background Check*, <https://oklahoma.gov/osbi/services/information-services-division/criminal-history-reporting-unit/how-to-request-a-background-check.html> (last visited June 4, 2026)); and \$10 in Montana (Montana Dep't of Just., Div. of Crim. Investigation, *Background Checks*, <https://www.dojmt.gov/dci-home/background-checks/> (last visited July 4, 2026)).

⁸¹ See *supra* note 80.

⁸² The Department did not attribute a cost to the notification of CLEOs, as this process will utilize existing mechanisms that can be adapted for this purpose, nor did the Department attribute a cost to the deliberative portions of the decision-making the process, as the deliberative process will be carried out by employees whose labor costs will not change based on how much time is spent deliberating.

⁸³ FBI Criminal Justice Information Services Division; User Fee Schedule, 89 FR 70206 (Aug. 29, 2024). The Department notes, however, that starting October 1, 2026, the fingerprinting fee will increase to \$13. See FBI Criminal Justice Information Services Division; User Fee Schedule, 91 FR 34655 (June 8, 2026). This will increase the cost to the Department by \$330,000, for a total of \$14,840,100.

⁸⁴ Consistent with the calculations in section IV.A.1.d of this preamble, and due to the variety of documentation an applicant may submit, the different disabling predicates from which an applicant could be seeking relief, and other factors involved in analysis, the Department based its current calculation on an applicant who has one prior disabling offense that is not presumptively disqualifying and who has only one locality arrest record.

individual applications, the estimated cost for the Department to process forms and fingerprints and to conduct

background checks for applications to restore firearms rights is \$14,510,100 annually (Cost for processing

fingerprints = \$12.00 × 330,000 = \$3,960,000; Cost for application review = \$31.97 × 330,000 = \$10,550,100).

TABLE B—COST TO DEPARTMENT UNDER FINAL RULE

Process-related item	Estimated cost	Number of individuals	Cost
Cost to Process Fingerprints	\$12.00	330,000	\$3,960,000
Time to Review Submission	31.97	330,000	10,550,100
Total .....	.....	.....	14,510,100

B. Summary of Benefits

The background check requirement for individuals applying for relief from disability provides at least three important benefits. First, it provides important public safety and security benefits by ensuring the Department can accurately verify the applicant’s identity. Second, it facilitates the Attorney General’s evaluation of whether individuals who are currently prohibited from possessing or otherwise handling firearms should have their rights restored. Existing regulations do not provide any alternate means to accomplish the statutorily required goal of determining whether an individual restoration decision is consistent with the public interest and is not likely to cause a risk to public safety. Likewise, the final rule provides one of the only means, absent a presidential pardon, for an individual who has a disabling prior conviction to seek a restoration of federal firearms rights after the Attorney General has the opportunity to evaluate the individual’s personal circumstances, rehabilitation, and reintroduction into society. Because this final rule will facilitate the collection of information necessary to implement section 925(c) and promote the restoration of federal firearms rights in a way that respects public safety and the public interest, the Department has concluded that the benefits of this rule outweigh the costs described above.

V. Final Rule Description

The final rule differs in certain respects from the proposed rule. The final rule reorganizes the original content by moving paragraphs, renumbering provisions, and adding new sections to clarify the process and address commenters’ confusion as to who is eligible for relief. It also adds definitions to ensure the consistent usage of terms throughout.

The proposed rule identified the types of materials applicants are required to submit to enable the Attorney General to determine whether the applicant is likely to act in a manner dangerous to

public safety and whether relief would be contrary to the public interest. In the interest of establishing a more comprehensive record for review by the Attorney General, the final rule identifies additional materials to be submitted. Thus, the final rule (1) requires most individuals who served in the military, regardless of the underlying basis for their firearms disability, to submit a record of their service; (2) requires individuals who have renounced citizenship to provide a supplemental statement describing the circumstances surrounding the renunciation; and (3) requires individuals who have engaged in conduct outside of the United States that would be disqualifying if it had occurred in the United States to provide documentation in English associated with any foreign adjudication or conviction.

Next, the final rule recognizes that it may not be possible for individuals to obtain certified copies of all official documents; the final rule thus provides additional flexibility for submitting documents. The final rule also permits applicants to submit an explanation where required records are unavailable.

The final rule recognizes that the requirement to notify a CLEO was unlikely to achieve its purpose as contemplated in the NPRM. The purpose of the notification was for the law enforcement entity most likely to have recent information about the applicant’s conduct to be able to provide such information to the Attorney General to consider in his assessment. Under the NPRM, the notification obligation fell on the applicant. Due to jurisdictional differences and the likelihood that a requirement to notify a single person might be difficult to satisfy in some cases, the NPRM permitted the applicant to satisfy the notification requirement by notifying any one of the local chief of police, county sheriff, head of the state police, or state or local district attorney or prosecutor. Based on differences in government structure

across jurisdictions, however, some of these individuals might have limited policing or prosecutorial authority. The Department has accordingly determined that it will perform the notification itself, which will allow the Department to leverage its existing law enforcement authority notification capabilities. The Department believes that it is likely to be more effective than applicants in notifying the relevant law enforcement entity with authority for the locality where the applicant resides.

Next, the final rule clarifies and revises the considerations governing presumptively disqualifying events to address comments that argued that the proposed rule was unclear on these matters. The final rule explains that individuals who previously committed certain violent or otherwise serious offenses will be presumptively unable to demonstrate that they will not act in a manner dangerous to public safety. The final rule also explains that individuals who committed certain other offenses will be presumptively unable to demonstrate that they will not act in a manner dangerous to public safety for a period of 10 years following completion of any sentence. As an example, and largely in response to public comments, the final rule removes animal abuse offenses and some non-violent firearms and explosives offenses from the list of permanently presumptively disqualifying offenses and places them in this 10-year time-limited category of presumptively disqualifying offenses. The final rule explains that individuals who committed any other disqualifying offense will be presumptively unable to demonstrate that they will not act in a manner dangerous to public safety for a period of five years following completion of any sentence.

Although these categories of offenses existed in the proposed rule, comments suggested that the regulatory language should be clarified. The final rule explains that for the purpose of time-limited presumptive disqualifications, the Attorney General may consider conduct of individuals who participated

in pretrial diversion or other programs in lieu of criminal conviction. Because of the link between the propensity for violence and violent misdemeanor crimes, the final rule provides that individuals who have committed certain violent misdemeanors while otherwise prohibited by section 922(g) for any reason, will be presumptively unable to demonstrate that they will not act in a manner dangerous to public safety for a period of five years following completion of any sentence imposed for a violent misdemeanor.

The final rule identifies certain time-limited or status-related prohibitors as presumptively disqualifying because they demonstrate that the individual is engaging in ongoing unlawful conduct or has a certain criminal justice system status. Many of these statuses were included in the proposed rule, but they have been reorganized to better clarify when they apply. Criminal justice system statuses are appropriate for presumptive disqualification because they are time-limited and may be resolved through successful compliance with court requirements. In response to public comments regarding the frequency with which participation in pretrial diversion or other program is ordered by a court, the final rule amends the list of presumptively disqualifying criminal justice system statuses to include individuals who are participating in such programs in lieu of criminal conviction. The other time-limited or status-related prohibitors, such as being illegally present in the United States or unlawfully using controlled substances, are appropriate for presumptive disqualification because they can be corrected through the individual's voluntary conduct. But, in light of the Supreme Court's decision in *Hemani*, as well the many comments that expressed concern about applying a presumption of ineligibility for relief to unlawful users of marijuana, the final rule excludes from the scope of the status-based presumptions those individuals whose unlawful use of or addiction to a controlled substance consists only of the use of or addiction to marijuana.

The final rule clarifies the application process and required materials for applicants subject to the disability in 18 U.S.C. 922(g)(4). It explains that individuals who have received relief for an 18 U.S.C. 922(g)(4) disability imposed by a state or territory that has adopted a relief-from-disability program implemented in accordance with 34 U.S.C. 40915 (37 states and territories as of the date of publication of this rule) or from a federal department or agency that has adopted a relief-from-disability

program or other administrative process are not currently subject to this disability and do not require relief under section 925(c). It further explains that individuals who have not yet sought relief from a state or territory or a federal agency will be presumptively unable to demonstrate that they will not be likely to act in a manner dangerous to public safety based on a lack of information necessary for the Attorney General to make a determination to the contrary. Based on comments suggesting that the rule should generally defer to adjudications as to ongoing disability by the entities that imposed the disability, the final rule explains that individuals who have been denied relief from a state, territory, or federal agency will be presumptively unable to show that they are not likely to act in a manner dangerous to public safety because the agency that imposed the disability has determined that the individual should remain subject to the disability.

The final rule incorporates language specifically tailored to those individuals who have a disability related to a military conviction or dishonorable discharge. The final rule adds terms to better describe these circumstances and identifies the types of documentation these individuals are required to submit.

In response to public comments regarding the link between suicide risk and gun use, the final rule adds language to both the applicant and character-reference affirmations to address potential suicide risks of applicants.

Absent extraordinary circumstances, the final rule limits successive applications from individuals who were previously denied relief based on a determination that they did not meet the statutory criteria. Finally, the rule clarifies that relief procured by fraud is void rather than voidable.

VI. Other Regulatory Changes

As relevant here, 28 CFR 25.6(j)(2) currently allows ATF to access the NICS Index (known today more broadly as the NICS Indices) as part of ATF's criminal and civil enforcement functions under Title 18, Chapter 44, which includes 18 U.S.C. 925(c). See 28 CFR 25.6(j)(2). This final rule includes amendments to 28 CFR 25.6(j) to reflect that the Attorney General has rescinded the prior delegation to ATF of the relief of disabilities function under 18 U.S.C. 925(c) and to allow access to the NICS Indices by the Attorney General or his designee when making determinations on whether to grant a relief from disabilities.

VII. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563—Regulatory Review

This final regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," sec. 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review."

OMB has reviewed this rule and has determined that this final rule is a "significant regulatory action" under Executive Order 12866, section 3(f), but not economically significant under section 3(f)(1). It will not have an annual effect on the economy of \$100 million or more, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or state, local, or tribal governments or communities.

This final rule implements 18 U.S.C. 925(c) by providing detailed criteria to guide determinations under that section to ensure that those persons granted relief are, in fact, "not likely to act in a manner dangerous to public safety" and that granting such relief would "not be contrary to the public interest." 18 U.S.C. 925(c).

The Department estimates that this rule will have an impact on approximately 330,000 applicants per year; that the application for relief will take approximately 65 minutes for the applicant to complete; and that each of the three character witnesses will spend an additional 10 minutes to complete the witness's portion of the application. Using the same BLS cost of \$48.05 per hour of labor for the average civilian laborer as was used in section IV of this preamble, the Department's cost estimates for this rule are as follows: 65 minutes of labor at a cost of \$52.05 ($\$48.05/60 \times 65$ minutes) for the applicant's review of the rule, completion of the application, and associated labor $\times$ 330,000 applicants = \$17,177,875; adding 10 minutes of labor ($\$48.05/60 \times 10$ minutes) for each of the 3 character references $\times$ 990,000 [3 references $\times$ 330,000 applicants] = \$7,928,250; \$17,177,875 + \$7,928,250 = \$25,106,125. Indigent applicants would be allowed to request a waiver or modification of the application fee. However, assuming this fee is imposed, and all 330,000 potential applicants pay the full fee, the fee would result in total additional cost of \$9.9 million in the first year. Adding in the costs of fingerprinting ($\$50 \times 330,000$ applicants = \$16,500,000), court record collection

(\$12 × 330,000 applicants = \$3,960,000), and arrest record collection (\$13.13 × 330,000 applicants = \$4,332,900) raises the costs to \$34,692,900. Adding these costs to the time costs outlined above (*i.e.*, \$25,106,125), equals \$59,799,025 in costs to the public in the first year.

The benefit of this rule is that it would provide detailed criteria to guide determinations under section 925(c). Detailed criteria are an important part of the implementation of the 925(c) regulatory scheme because they will help avoid the pitfalls of the previous, ATF-operated process that triggered congressional action and deprived citizens of a relief mechanism for over 30 years. The rule further makes clear that certain characteristics will presumptively result in a denial of relief, ensuring that government resources are focused primarily on persons who could plausibly satisfy the dangerousness and public interest analysis necessary for relief under the statute. Without this rule, citizens will continue to be deprived of their Second Amendment rights, despite a clear statutory requirement for relief to be available.

Given congressional prohibitions on ATF's expenditure of funds, discussed above, no lesser alternatives short of withdrawal of the prior regulation and promulgation of a new regulation that addresses congressional concerns will suffice to achieve the same result. Taking no action would result in an unconscionable continuation of the status quo prior to 2025, *i.e.*, the effective absence of any available form of relief for the millions of people who are statutorily authorized to pursue relief. Withdrawal of the ATF delegation alone, as accomplished by the March IFR, has not fully addressed congressional concerns about the adequacy and costs of investigation or provided guidance to the public regarding criteria and resource allocation. Similarly, restoration of rights under section 925(c) by the Attorney General on an ad hoc basis, *see, e.g.*, Granting of Relief; Federal Firearms Privileges, 91 FR 8532 (Feb. 23, 2026), does not provide sufficient advance guidance to the public and cannot feasibly address the anticipated volume of potentially meritorious applications for relief. Only the promulgation of a new regulation that addresses congressional concerns and provides an avenue for relief, as this final rule does, can achieve an appropriate process for citizens to seek this relief from their government.

B. Executive Order 14294—Fighting Overcriminalization

Executive Order 14294, “Fighting Overcriminalization in Federal Regulations,” requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This final rule does not create a criminal regulatory offense and is thus exempt from Executive Order 14294's requirements.

C. Executive Order 13132—Federalism

This final rule will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, “Federalism,” the Attorney General has determined that this final rule does not have federalism implications warranting the preparation of a federalism summary impact statement.

D. Executive Order 12988—Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.”

E. Executive Order 14192—Regulatory Costs

Executive Order 14192, “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the Agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This final rule is intended to be a deregulatory action under Executive Order 14192 because it provides a means by which the Attorney General may adjudicate applications for relief from the disabilities imposed by 18 U.S.C. 922 pursuant to 18 U.S.C. 925(c).

F. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Acting Attorney General has considered whether this final rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Department estimates that this rule will have an impact on at least 20 million adults in the United States and that approximately 330,000 individuals will apply for section 925(c) relief in the first year. However, only a small minority of those applicants are likely to be individuals holding federal firearms licenses and running small businesses. This minority would consist primarily of retail dealers with federal firearms licenses who fall into the North American Industry Classification System Code 459110 for gun shops or hunting equipment stores with a standard size of under \$26.5 million per year.⁸⁵ Notably, the impacted group is even smaller than this general category, as the rule does not affect all licensees or businesses in that classification category; instead, it applies only to those who have recently incurred a prohibitor pursuant to 18 U.S.C. 922(g) and, pursuant to 18 U.S.C. 925(c), are seeking to avoid revocation of their licenses.

Based on recent data regarding the number of firearms licenses that were revoked in a given year, the Department estimates that fewer than 195 federal firearms licensees will apply for section 925(c) relief per year; indeed, 195 is almost certainly an overcount, as firearms licenses are revoked not just for section 922(g) prohibitors but also for a number of reasons that cannot be addressed through the process established in this final rule.⁸⁶ The

⁸⁵ U.S. Small Bus. Admin., Table of Small Business Size Standards 22 (Mar. 2023), <https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards-Effective%20March%2017%2C%202023%20%282%29.pdf>.

⁸⁶ *See* ATF, Revocation of Firearms Licenses, <https://www.atf.gov/firearms/tools-and-services-firearms-industry/current-licensees/revocation-firearms-licenses> (last visited July 4, 2026). ATF cites revocation for reasons such as failing to conduct a required background check, falsifying records, or refusing to permit inspection by ATF personnel, none of which is a basis to pursue relief according to this rule. The process in this rule provides relief only for those who are prohibited pursuant to section 922(g), for reasons such as previous felony conviction, fugitive status, or being subject to certain protective orders, etc.

Department acknowledges that there may be a preexisting pool of revocations from the years during which section 925(c) relief was largely unavailable. The final rule, however, provides that a firearm licensee has only 30 days from the date the licensee incurred the disability (or a conviction for a crime punishable by a term of imprisonment exceeding one year was finalized) to file for relief before licensed firearms operations must cease, the 30-day window has almost certainly elapsed for the vast majority of that pool.

Next, the application is estimated to take 65 minutes for the applicant to complete, including review time. Costs incurred reflect loaded wage costs:⁸⁷

Labor Costs: $\$60.06/60 \times 65$ minutes of labor $\times$ 195 federal firearm licensees = \$12,867.68.

Monetary Costs: Fingerprinting (\$50) + Document collection (\$25.13) + Fee (\$30) = $\$105.13 \times 195$ federal firearms licensees = \$20,500.35.

Accordingly, the cost associated with the application to small businesses is no more than \$33,368.03 per year (\$12,867.68 + \$20,500.35) to all of industry. Put another way, the cost to the individual applicant is approximately \$171.12 (\$33,368.03 $\div$ 195 applicants). The cost of \$171.12 per applicant means that a business would need to have a revenue of less than \$17,112 for this cost to be deemed significant to its operations: $(\$71.12 \div .01 = \$17,112)$. Given that the SBA includes in the category small businesses that make up to \$26.5 million per year, this rule is likely to have a significant impact on few if any businesses. Conversely, the Department notes that, without the remedy the rule provides for licensees to potentially avoid the revocation of their license, a licensee would be prohibited from engaging in business, which would have a negative and potentially devastating impact on the operation of a business.

By approving this final rule, the Acting Attorney General certifies that it will not have a significant economic impact on a substantial number of small entities.

G. Congressional Review Act

This final rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

⁸⁷ At the BLS rate of \$48.05 per hour for wages and benefits, and a standard 2,080 hour per year schedule, the approximate cost for an employee per year is \$100,000 (\$99,944). A loaded wage also factors in additional costs like overhead and taxes, which the Department estimates at approximately 25 percent of wages and benefits. Accordingly, the Department estimates an hourly loaded rate of \$60.06 per employee, and a yearly loaded wage of approximately \$125,000 (\$124,930).

H. Unfunded Mandates Reform Act of 1995

This final rule will not result in the aggregate expenditure by state, local, and tribal governments, or by the private sector, of \$100 million or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. This rule imposes no enforceable duties on other governments or the private sector, requiring only notification to, and not response from, CLEOs in localities where applicants under the rule reside. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538.

I. Paperwork Reduction Act

This final rule would call for a new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. As defined in 5 CFR 1320.3(c), a “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the new information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection for submission to the Department.

Title: Application for Restoration of Federal Firearms Rights.

OMB Control Number: 1123–0017.

Summary of the Collection of Information: Under 18 U.S.C. 925(c), the Attorney General may grant relief to individuals who are prohibited under federal law from possessing and engaging in certain activities with respect to firearms and ammunition. Granting such relief in appropriate cases would, among other things, protect the Second Amendment right of the people to keep and bear arms in a manner that is consistent with public safety. Section 925(c) thus provides a mechanism for the Attorney General to relieve otherwise-prohibited persons from federal firearm disabilities if they can show that they are not likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest, while ensuring that violent and dangerous persons remain subject to the prohibitions in the GCA.

The Attorney General previously delegated authority under section 925(c) to ATF. Since 1992, Congress has prohibited ATF from using appropriated

funds to process applications for individuals seeking to restore their federal firearms rights; Congress did not, however, prohibit ATF from using such funds to grant such relief to corporations. The appropriations restriction pre-dates the Supreme Court’s 2022 decision in *Bruen*,⁸⁸ under which courts must assess whether firearms laws such as 18 U.S.C. 922(g) are consistent with the principles evident from the Nation’s historical tradition of firearm regulation. And, under the Supreme Court’s 2024 decision in *Rahimi*,⁸⁹ whether an individual is dangerous or poses a threat of physical violence is an important consideration in determining whether the individual may be disarmed. Since the *Bruen* decision, there have been many challenges to section 922(g)(1)’s constitutionality under the Second Amendment. Some of those challenges are declaratory judgment actions brought by non-violent convicted felons who do not pose any apparent danger to others and who have not themselves violated section 922(g)(1). Some of these plaintiffs have had success in challenging section 922(g)(1), as courts have found that the statute is unconstitutional as applied to the plaintiffs.⁹⁰ At the same time, some courts have expressly recognized that section 925(c), absent the proviso prohibiting ATF from carrying it out, might have provided non-violent convicted felons with a viable route to restore their Second Amendment rights.⁹¹ A functional 925(c) process would likely obviate the need for some portion of this litigation and ensure that individuals meeting the relevant criteria may possess or otherwise handle firearms in a manner consistent with the Second Amendment, while still protecting public safety.

This final rule adds a new 28 CFR part 107 to allow individuals prohibited under federal law from possessing, shipping, transporting, or receiving firearms or ammunition to apply to the Attorney General for relief from the disabilities imposed under 18 U.S.C. 922(g). It provides detailed criteria to guide determinations under section 925(c). By making clear that certain characteristics will presumptively result in a denial of relief, these criteria will ensure that government resources are focused on persons who could plausibly make the showings necessary for relief. Importantly, relief under section 925(c) relieves the applicant only of specific

⁸⁸ *Bruen*, 597 U.S. 1.

⁸⁹ *Rahimi*, 602 U.S. 680.

⁹⁰ See, e.g., *Range*, 124 F.4th 218.

⁹¹ E.g., *Williams*, 113 F.4th at 661.

federal firearm disabilities. It does not restore the right to possess or otherwise handle a firearm under state law if the applicant is independently subject to any such state-law prohibition. Additionally, the final rule makes clear that relief under section 925(c) does not extend to a person who incurs a new disability after the granting of relief, such as by being convicted of an additional, subsequent offense punishable by imprisonment for a term exceeding one year.

Currently, any individual who wishes to seek relief from firearms disabilities has limited options available, such as seeking a full and unconditional pardon if the disability applies due to a felony conviction. This final rule would provide an additional avenue for relief by allowing submission of applications for relief to the Attorney General.

Need for Information: The authority to restore firearms rights is granted to the Attorney General in 18 U.S.C. 925(c) and protects the Second Amendment right of the people to keep and bear arms. There is, however, currently no regulatory process in place enabling the Attorney General to grant restoration to all individuals who meet the statutory standard. To determine if such relief should be granted to an individual, the Attorney General, by statute, must determine if “the circumstances regarding the disability, and the applicant’s record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest.” The information requested in the application is necessary for the Attorney General to make such a determination.

Proposed Use of Information: To allow the Attorney General to determine whether to grant restoration of firearms rights to applicants while ensuring that such a decision is consistent with public safety and not contrary to the public interest.

Description of the Respondents: Persons who are subject to disabilities under 18 U.S.C. 922(g) and who choose to make an application for relief pursuant to 18 U.S.C. 925(c).

Estimated Number of Respondents: 330,000 per year.

Frequency of Response: Once every five years until relief is granted.

Burden of Response: 65 minutes.

Application Fee: \$30.

List of Subjects

27 CFR Part 478

Administrative practice and procedure, Arms and munitions,

Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies).

28 CFR Part 25

Administrative practice and procedure, Computer technology, Courts, Firearms, Law enforcement officers, Penalties, Privacy, Reporting and recordkeeping requirements, Security measures, Telecommunications.

28 CFR Part 107

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

Accordingly, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301, 28 U.S.C. 509, 510, 515–519, 552(a), and 18 U.S.C. 921–931, the Department’s amendments to 27 CFR 478.144 and 28 CFR part 0.130 in the interim final rule published at 90 FR 13080 (March 20, 2025) are adopted as final and the Department amends 28 CFR chapter I as follows:

PART 25—DEPARTMENT OF JUSTICE INFORMATION SYSTEMS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: Public Law 103–159, 107 Stat. 1536, 49 U.S.C. 30501–30505; Public Law 101–410, 104 Stat. 890, as amended by Public Law 104–134, 110 Stat. 1321.

Subpart A—The National Instant Criminal Background Check System

■ 2. Amend § 25.6 by revising paragraph (j)(2) to read as follows:

§ 25.6 Accessing records in the system.

* * * * *

(j) * * *

(2) Responding to an inquiry from the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or the Attorney General, Attorney General’s designee, or Attorney General’s designated component in connection with a civil or criminal law enforcement activity relating to the Gun Control Act (18

U.S.C. chapter 44) or the National Firearms Act (26 U.S.C. chapter 53); or

* * * * *

■ 3. Add part 107 to read as follows:

PART 107—RELIEF FROM DISABILITIES UNDER THE GUN CONTROL ACT

Sec.

107.1 Definitions.

107.10 Application for relief from disabilities under the Gun Control Act.

107.20 Review of application.

107.30 Scope of relief granted.

107.40 Application fee.

107.50 Presumptive disqualifications for certain applicants.

107.60 Applicants subject to the disability in 18 U.S.C. 922(g)(4).

107.70 Subsequent applications and prevention of vexatious applications.

107.80 Relief void if procured by fraud.

Authority: 5 U.S.C. 552(a); 18 U.S.C. 921–931.

§ 107.1 Definitions.

As used in this part:

Arrest shall include a criminal arrest, “apprehension” as the term is used under the Uniform Code of Military Justice, and “pretrial restraint” as the term is used under the Rules for Courts-Martial. The term also includes a citation in lieu of arrest for a criminal violation (other than one involving parking, traffic, or motor vehicle violations punishable only by a fine).

Brandish means to display all or part of a firearm, or otherwise make the presence of a firearm known to another person, in a threatening or intimidating manner, regardless of whether the firearm is directly visible to that person. The term does not include the carrying of a firearm for lawful purposes, including self-defense, whether the firearm is concealed or unconcealed.

Controlled substance has the meaning given the term in 27 CFR 478.11, except that it does not include marijuana.

Convicted or conviction shall include a criminal conviction, a plea of guilty, a finding of guilt without judgment by a court, and the judgment of special or general court-martial issued under 10 U.S.C. 860c of the Uniform Code of Military Justice. The term also includes a judgment entered upon a plea of nolo contendere.

Felony means “a crime punishable by imprisonment for a term exceeding one year” as that phrase is defined in 18 U.S.C. 921(a)(20).

Misdemeanor crime of domestic violence shall have the meaning provided in 27 CFR 478.11. It shall also include a conviction for a crime at a general or special court-martial that would meet the definition of

“misdemeanor crime of domestic violence” in the previous sentence had the conviction been entered by a State, local, or Tribal court.

Sentence shall include any criminal penalty imposed by a court or following a general or special court-martial of a custodial sentence (whether continuous or intermittent) such as detention, incarceration, or home confinement; a non-custodial sentence (whether supervised or unsupervised) such as probation, parole, or release; or a period during the pendency of other unsatisfied penalties such as monetary obligations, education, treatment, or programming requirements, community service or extra duties, or restriction on movement or electronic monitoring.

State or Federal law shall include Federal laws (including the Uniform Code of Military Justice); State laws; the laws of the District of Columbia; the laws of United States territories; the laws of any subdivision of the States or territories; and laws of Federally Recognized Tribes, where “Federally Recognized Tribe” means any tribe listed at 91 FR 4102 or any future notice listing Federally Recognized Tribes.

Unlawful user of or addicted to any controlled substance has the meaning given this term in 27 CFR 478.11, except that it excludes those whose only unlawful use of or addiction to a controlled substance consists of the use of or addiction to marijuana.

§ 107.10 Application for relief from disabilities under the Gun Control Act.

(a) Any person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed under section 922 of the Gun Control Act. *See* 18 U.S.C. 925(c).

(b) In determining whether the applicant's prior offense is presumptively disqualifying under § 107.50, the Attorney General may consider all the facts underlying the prior offense to determine whether that offense involved the same or similar conduct targeted by the specific offenses listed in § 107.50. The Attorney General is not confined to a “categorical approach” that looks only at the elements of the underlying offense or that requires an exact correspondence with a “generic” offense.

(c) An application for relief under paragraph (a) of this section shall be submitted using the form and procedures established by the Attorney General and shall include the information required by this part and any additional data the Attorney General deems appropriate.

(d) Any record or document of a court or other government entity or official required by this part to be furnished by an applicant in support of an application for relief shall be certified as a true copy by the court or other government entity or official or shall be the true copy as provided by the court or other government entity or official to the applicant. Applicants may submit electronic copies of such records or documents but must follow any instructions or guidance issued by the Department regarding the procedures for doing so.

(e) Any record or document required by this part to be furnished by an applicant in support of an application for relief containing a foreign language shall be accompanied by a full English-language translation. The translator must certify that the translation is complete and accurate and that the translator is competent to translate from the foreign language into English.

(f) If any supporting documents required under paragraph (g)(4), (5), (6), (7), (8), (11), or (12) of this section are unavailable to an applicant due to failure of an official entity to maintain records due to passage of time, destruction such as through natural disaster or fire, or any reason not attributable to an applicant's fault or negligence, the applicant shall submit a sworn statement that:

(1) Includes the underlying facts, charges or proceedings, and ultimate disposition; and

(2) Describes the efforts of the applicant to obtain the documents and the reason they are unavailable to the applicant.

(g) An application shall include:

(1) A statement of all applicable prohibitions on the applicant's possession, transfer, shipment, or receipt of a firearm under 18 U.S.C. 922(g);

(2) Written consent from the applicant authorizing the Department to obtain and examine, and custodians to disclose, copies of records, statements, and information regarding the applicant's background (including employment, medical history, military service, and criminal record);

(3) In the case of an applicant who is an individual and not an entity, an electronic fingerprint scan or two properly completed FBI Forms FD-1222 (Fingerprint Card);

(4) In the case of an applicant having been convicted of a felony, a copy of the indictment, information, or other charging instrument on which the applicant was convicted; any plea agreement; any factual basis for a plea; any presentence report or other

document prepared to aid in sentencing or response thereto; the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court; and a certificate from the relevant authority (such as a department of corrections, probation office, or parole board) stating the date of completion of the applicant's sentence, including any term of supervision;

(5) In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment; any petition that sought to have the applicant so adjudicated or committed; medical records sufficient to characterize the diagnoses underlying, and reasons for, adjudication or commitment of the applicant; any court order or finding of a court, board, commission, or other lawful authority showing the applicant's discharge from commitment, restoration of mental competency, or the restoration of rights; and a current certification from a licensed mental health professional that the applicant either no longer suffers from the disease or condition that caused the disability or that the disease or condition has been successfully treated or is stably managed such that the person is unlikely to be a danger to himself/herself or others;

(6) In the case of an applicant who, as a member of the Armed Forces, was convicted by general court-martial for a felony or who was discharged from the Armed Forces under dishonorable conditions (including a sentence of dismissal of a commissioned officer, cadet, or midshipman), a copy of the applicant's Certificate of Uniformed Service (DD Form 214 and, if applicable, DD Form 214-1 and/or DD Form 215), and, if applicable, the Charge Sheet (DD Form 458), Judgment of the Court, and Certificate of Completion of Appellate Review;

(7) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state or before an officer designated by the Attorney General when the United States was in a state of war. *See* 8 U.S.C. 1481(a)(5) and (6). The person shall also submit a supplemental statement explaining, under penalty of perjury, why the person renounced his or her citizenship;

(8) In the case of an applicant who has been convicted of a misdemeanor crime

of domestic violence, a copy of the charging instrument on which the applicant was convicted; a copy of the underlying investigative reports; a statement of the relationship of the victim to the applicant; the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court; a certificate from the relevant authority (such as a department of corrections, probation office, or parole board) stating the date of completion of the applicant's sentence; any record purporting to show that the conviction was rendered nugatory or that civil rights were restored (even if such procedure was insufficient under Federal law to restore Federal firearms rights); and any police reports from the time of original arrest or apprehension to the present involving domestic violence in which the applicant is involved;

(9) A copy of any application, and any decision on that application, made to a State or other political subdivision to expunge or set aside a prior conviction, to restore the right to possess or otherwise handle a firearm, or to restore any other civil rights that the applicant has forfeited;

(10) In the case of an applicant who is an individual and not an entity, a copy of the individual's criminal record check (*i.e.*, a list of the individual's arrests and convictions within a given jurisdiction, or a statement that the individual has no arrests or convictions) for:

(i) Each State (or locality, if a State-wide report is unavailable) in which the applicant has resided since turning 18 or for the last 25 years, whichever is shorter; and

(ii) Each State (or locality, if a State-wide report is unavailable) in which the individual has been arrested since turning 18 or for the last 25 years, whichever is shorter;

(11) A copy of the applicant's Certificate of Uniformed Service (DD Form 214 and, if applicable, DD Form 214-1, and/or DD Form 215), for any active or reserve duty the applicant has served since turning 18 or for the last 25 years, whichever is shorter;

(12) A copy of any foreign criminal, medical, or military record concerning any conduct, adjudication, or other matter that occurred outside the jurisdiction of the United States but that would have been required to be submitted under paragraph (f)(4), (5), (6), (8), or (9) of this section had the conduct, adjudication, or other matter occurred inside the jurisdiction of the United States and had it involved a Federal, State, local, or Tribal authority instead of any foreign authority;

(13) In the case of an applicant who is an individual and not an entity, an affidavit from three references, attesting under penalty of perjury that:

(i) The affiant is not related to the applicant by blood or marriage and has known the applicant for at least three years;

(ii) The affiant is not currently prohibited from possessing a firearm under 18 U.S.C. 922(g);

(iii) To the affiant's knowledge, the applicant:

(A) Has not committed any crime (other than traffic or parking infractions, or petty offenses not involving force or violence to persons or property) in the five years immediately preceding the date of the attestation;

(B) Is not an unlawful user of or addicted to any controlled substance as defined in § 107.1, regardless of whether the controlled substance has been legalized or decriminalized for medicinal or recreational purposes in the State where the applicant resides;

(C) Does not regularly abuse alcohol or other intoxicants, including prescription drugs;

(D) Is not currently suffering from a mental health condition that would impair the applicant's judgment or behavior;

(E) Is a person of good character and has a good reputation in the community, demonstrating characteristics such as honesty, dependability, and community contribution;

(F) Has not threatened to use unlawful violence, or attempted to do so, toward any person or threatened or attempted suicide, regardless of whether the authorities were notified, within the past five years; and

(G) Would not pose a danger to public safety or to himself/herself, family members, or intimate partners if permitted to possess a firearm; and

(14) In the case of an applicant who is an individual and not an entity, an affirmation from the applicant under penalty of perjury that the applicant:

(i) Has not committed a crime (other than traffic or parking infractions, or petty offenses not involving force or violence to persons or property) within the past five years;

(ii) Is not an unlawful user of or addicted to any controlled substance, as defined in § 107.1, regardless of whether the controlled substance has been legalized or decriminalized for medicinal or recreational purposes in the State where the applicant resides;

(iii) Does not regularly abuse alcohol or other intoxicants, including prescription drugs;

(iv) Is not currently suffering from a mental health condition that would

impair the applicant's judgment or behavior;

(v) Is a person of good character and has a good reputation in the community;

(vi) Has not threatened to use unlawful violence, or attempted to do so toward any person or threatened or attempted suicide regardless of whether the authorities were notified, within the past five years;

(vii) Would not pose a danger to public safety or to himself/herself, family members, or intimate partners if permitted to possess a firearm;

(viii) Has not been a member of, or associated with, a group of three or more persons who acted together in the United States or elsewhere with the aim of committing any crime within the last 10 years; and

(ix) Has provided, to the extent possible, all information relevant to the applicant's eligibility under this paragraph (g) and that all information provided in the application is true and correct.

§ 107.20 Review of application.

(a) The Attorney General may grant relief to an applicant if the applicant has established to the satisfaction of the Attorney General that the circumstances regarding the disability (or disabilities), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest. In making this determination, the Attorney General may consider all information submitted as part of the application and all other relevant information, including the following:

(1) All of the applicant's criminal history, including arrests, regardless of whether they resulted in criminal charges; criminal charges, regardless of whether they resulted in a conviction; alternative dispositions of criminal charges resulting in dismissals, such as deferred prosecutions or probation before judgment; and convictions for any offense;

(2) The seriousness of the conduct involved in all the applicant's prior convictions for or other dispositions of any offense, including victim impact statements;

(3) The conduct underlying any charges against the applicant that were dismissed in exchange for a guilty plea;

(4) The applicant's conduct while serving any criminal sentence, including compliance with conditions of supervision and satisfaction of any financial penalties;

(5) The time elapsed since the applicant's completion of any criminal

sentence and the applicant's conduct during that time;

(6) The applicant's past or present use or abuse of controlled substances;

(7) Any restraining or protection orders, regardless of whether that behavior related to an arrest;

(8) Any threats or threatening behavior, regardless of whether that behavior resulted in criminal charges;

(9) The applicant's mental health, including any abnormal behaviors or mental health treatment;

(10) Any information provided by the chief law enforcement officers of the locality in which the applicant resides either supporting or opposing the application; and

(11) Whether the applicant's individual circumstances demonstrate that a failure to grant relief would infringe the applicant's rights under the Second Amendment.

(b) Where an application fails to identify a disability for which relief may be granted, is improperly executed, or is otherwise incomplete, the applicant will be notified of the defect and given an opportunity to amend and resubmit the application within 30 days. Failure to amend and resubmit the application, with supporting documents or records, within 30 days will result in the application being considered abandoned. An abandoned application will not be considered for purposes of determining whether the person's application should be presumptively denied based on § 107.70.

(c) Whenever relief is granted to any person pursuant to this part, a notice of such action shall be promptly published in the **Federal Register**, together with the reasons therefor.

§ 107.30 Scope of relief granted.

(a) A person who has been granted relief under this part shall be relieved of the Federal disability or disabilities imposed by the Gun Control Act for which relief is sought with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms or ammunition. Such relief shall not extend to disabilities imposed by State law if the applicant is independently subject to any such State-law prohibition. A person who becomes subject to a subsequent disability after the granting of relief shall not be relieved of such disability and must reapply for relief.

(b)(1) A Federal firearms licensee (including any responsible person of the licensee as defined in 27 CFR 478.11) who incurs a disability under the Gun Control Act, *see* 18 U.S.C. 922(g), (n), 923(d)(1)(B); 27 CFR 478.32(a), 478.47(b)(2), during the term of a

current license or while the licensee has pending a license renewal application with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and who, within 30 days following the date of incurring the disability for which relief may be granted, files an application for removal of such disabilities, shall not be barred from licensed operations for the 30-day period following the date on which the applicant was first subject to such disabilities (or 30 days after the date upon which the conviction for a felony becomes final). If the licensee files the application for relief as provided by this part within such 30-day period, the licensee may further continue licensed operations during the pendency of the application. A licensee who does not file such application within such 30-day period shall not continue licensed operations beyond 30 days following the date on which the licensee was first subject to such disabilities (or 30 days from the date the conviction for a felony becomes final).

(2) In the event the term of a person's license expires during the 30-day period specified in paragraph (b)(1) of this section, or during the pendency of the application for relief, a timely application for renewal of the license must be filed to continue licensed operations. Such license application shall show that the applicant (or responsible person of the applicant) is subject to a Federal firearms disability (or disabilities), shall describe the event(s) giving rise to any disability, and shall state when any disability was incurred.

(3) A licensee shall not continue licensed operations beyond the 30-day period following the date on which the notification is issued that the licensee's application for removal of disabilities has been denied.

(4) When, as provided in this paragraph (b), a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the pendency of the application for removal of disabilities shall be denied by the ATF Director of Industry Operations for the applicable ATF Field Division.

§ 107.40 Application fee.

(a) The Attorney General shall charge a fee for processing applications requesting relief from the disabilities imposed under section 922(g) of the Gun Control Act.

(b) The Attorney General shall review the amount of the fee periodically, but not less than every two years, to determine the amount of the fee.

(c) Fee amounts and any revisions thereto shall be consistent with widely accepted accounting principles and practices and calculated in accordance with the provisions of 31 U.S.C. 9701 and other Federal law as applicable.

(d) Revisions to fee amounts shall be proposed by notice of proposed rulemaking in the **Federal Register** and finalized after the receipt of comments under 5 U.S.C. 553.

(e) Applicants may request a waiver or modification of the application fee. Each applicant shall set forth the reasons why a waiver or modification should be granted. The application fee may be waived or reduced because of indigency.

§ 107.50 Presumptive disqualifications for certain applicants.

(a) The Attorney General has determined that prior conviction for certain offenses renders an applicant presumptively unable to establish to the Attorney General's satisfaction that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest. Applications will therefore be denied, absent extraordinary circumstances, if the applicant:

(1) Has been convicted under State or Federal law of any felony that involves the following conduct, excluding jurisdictional requirements:

(i) The death of another person; rape, sexual abuse, or sexual assault (as defined by 18 U.S.C. Chapter 109A); human trafficking; or kidnapping (as defined by 18 U.S.C. 1201);

(ii) Intimate partner or domestic violence; burglary; robbery; extortion; carjacking; arson; racketeering (if at least one of the predicate racketeering acts is violent); or gang-related offenses;

(iii) Maiming, assault, or battery;

(iv) Stalking;

(v) Escape or rescue of a person in custody;

(vi) Terrorism; or

(vii) Witness tampering.

(2) Has been convicted under State or Federal law of any other felony offense where the applicant brandished or discharged a firearm or used an explosive in the course of committing that offense.

(3) Has been convicted under State or Federal law of attempting, soliciting, or conspiring to commit, or aiding or abetting the commission of, any of the offenses listed in paragraphs (a)(1) and (2) of this section.

(b) The Attorney General has determined that the recency of prior conviction for certain offenses renders an applicant presumptively unable to

establish to the Attorney General's satisfaction that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest. For purposes of this section, the Attorney General may treat any subsequent criminal conduct for which a person is participating (or has participated) in any program in lieu of criminal conviction (such as a pretrial diversion or substance abuse treatment program) as if the person had been convicted. Applications will therefore be denied, absent extraordinary circumstances, if the applicant:

(1) Has, within the last 10 years, been convicted of, or served any part of a sentence under State or Federal law for, any felony that involves the following conduct, excluding jurisdictional requirements:

(i) The manufacture, import, export, distribution, or dispensing of a controlled substance or the possession of a controlled substance with intent to manufacture, import, export, distribute, or dispense; or the attempt, solicitation, or participation in a conspiracy to commit, or the aiding or abetting the commission of, an offense listed in this paragraph (b);

(ii) Threats of violence;

(iii) The manufacture, possession, transfer, or use of explosives;

(iv) Conduct prohibited under 18 U.S.C. 922(g), (i), (j), (k), (l), (n), (o), or (u), or 18 U.S.C. 932 and 933, except that an individual convicted of violating 18 U.S.C. 922(g)(1) based on an underlying conviction that itself would not be subject to a presumptive denial under paragraph (a) or (b) of this section shall not be subject to such presumptive denial;

(v) Possession of a firearm or other weapon on school property or discharging a firearm or weapon on school property;

(vi) Animal abuse.

(2)(i) Has, within the last 10 years, been convicted of, or served any part of a sentence under State or Federal law for, a misdemeanor crime of domestic violence; or

(ii) At any time within the 10 years following a conviction or having served any part of a sentence under State or Federal law for a misdemeanor crime of domestic violence:

(A) Incurred any other disability set forth in 18 U.S.C. 922(g); or

(B) Was arrested for a felony, a misdemeanor crime of domestic violence, or any other offense where the applicant was alleged to have committed or threatened to commit acts of violence, brandished or discharged a firearm or used an explosive in the

course of committing or attempting to commit that offense, except that presumptive denial under this paragraph (b)(2)(ii)(B) shall not apply if the applicant submits evidence of a judicial determination that no misconduct occurred or of a dismissal on the merits of any resulting charges against the applicant.

(iii) If such conduct as described in paragraph (b)(2)(ii)(A) or (B) of this section occurs, the 10-year period begins anew.

(3) Has, within the last 5 years, been convicted of, or served any part of a sentence under State or Federal law for, any other felony.

(4) Has, within the last 5 years, been convicted of, or served any part of a sentence under State or Federal law for, any assault, battery, or stalking offense, or any threatened act of violence.

(c) The Attorney General has determined that ongoing unlawful conduct, certain statuses demonstrating ongoing or recent disregard for the law, certain statuses indicating a high risk of future violence, and certain statuses related to the criminal justice system render an applicant presumptively unable to establish to the Attorney General's satisfaction that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest. Applications will therefore be denied, absent extraordinary circumstances, if the applicant is currently:

(1) Awaiting imposition of a sentence for any crime;

(2) Serving any part of a sentence;

(3) Participating in any program in lieu of criminal conviction (such as through a pretrial diversion or substance abuse treatment program);

(4) Subject to any of the disabilities set forth in 18 U.S.C. 922(g)(2), (g)(5), or (g)(8);

(5) An unlawful user of, or addicted to, a controlled substance, as defined § 107.1; or

(6) Required to register under the Sex Offender Registration and Notification Act (SORNA), 34 U.S.C. 20911–20932, or comparable sex-offender registration statute, based on an offense that disqualified that person from possessing a firearm under the Gun Control Act.

(d) The Attorney General may treat any status under foreign law that is similar to the statuses outlined in paragraphs (c)(1) through (5) of this section as if the status had arisen in the United States, if consistent with United States public policy.

§ 107.60 Applicants subject to the disability in 18 U.S.C. 922(g)(4).

(a) Applicants currently subject to the disability in 18 U.S.C. 922(g)(4) are eligible to apply for relief under this part.

(b) The Attorney General has determined that the following circumstances render an applicant subject to the disability in 18 U.S.C. 922(g)(4) presumptively unable to establish to the Attorney General's satisfaction that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest based on a lack of information necessary for the Attorney General to make those determinations or to reject the contrary findings of another competent authority. Applications will therefore be denied, absent extraordinary circumstances, if the applicant is currently subject to the disability set forth in 18 U.S.C. 922(g)(4) imposed by:

(1) A State or territory that has adopted a relief-from-disability program implemented in accordance with 34 U.S.C. 40915, where the applicant is eligible to apply under the program and has not sought relief or has been denied relief;

(2) A State or territory that maintains a relief-from-disability program not implemented in accordance with 34 U.S.C. 40915, where the applicant is eligible to apply under the program and has not sought relief or has been denied relief; or

(3) A Federal department or agency that has adopted a relief-from-disability program or other administrative process where the applicant is eligible to apply under the program and has not sought relief or has been denied relief.

§ 107.70 Subsequent applications and prevention of vexatious applications.

The Attorney General has determined that denial of a prior application for relief under this part renders an applicant presumptively unable to establish to the Attorney General's satisfaction that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest. Applications will therefore be denied, absent extraordinary circumstances, if the applicant has, at any time, had an application for relief under this part denied based on a disqualification under § 107.50(a) or has, within the previous 5 years, had an application for relief under this part denied for any reason other than the circumstances described in § 107.50(b) and (c) or that

portion of § 107.60(b) related to failure to apply under the relevant program.

§ 107.80 Relief void if procured by fraud.

Any relief granted to an applicant pursuant to this part shall be void ab

initio if the applicant willfully subscribed as true any material matter that the applicant did not believe to be true or willfully omitted any material requested information.

Dated: August 13, 2026.

Todd Blanche,

Attorney General.

[FR Doc. 2026–16981 Filed 8–19–26; 8:45 am]

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Part V

Small Business Administration

13 CFR Part 121

Small Business Size Standards: Revised Size Standards Methodology;
Proposed Rule

SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****Small Business Size Standards:
Revised Size Standards Methodology**

AGENCY: U.S. Small Business Administration.

ACTION: Notice of availability of Revised Size Standards Methodology for comments.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) advises the public that it has revised its white paper explaining how it establishes, reviews, and modifies small business size standards. The revised white paper provides a detailed description of SBA's size standards methodology, including changes from SBA's 2024 Revised Size Standards Methodology (2024 Methodology, available at www.sba.gov/size). SBA welcomes comments and feedback on the 2026 Revised Methodology, which SBA has applied to the proposed review of size standards filed concurrently in the **Federal Register**.

DATES: SBA must receive comments on the 2026 Revised Methodology on or before September 21, 2026.

ADDRESSES: You may submit comments identified Docket No. SBA-2026-0265 by one of the following methods:

(1) *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments; or

(2) *Mail/Hand Delivery/Courier:* Ryan Lambert, Associate Administrator, Office of Government Contracting and Business Development 409 Third Street SW, Mail Code 6530, Washington, DC 20416.

SBA will post all comments on this Revised Methodology on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, you must submit such information to GCBDRags@sba.gov with "2026 Revised Methodology" in the subject heading. Highlight the information that you consider to be CBI, and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Ryan Lambert, Associate Administrator, Office of Government Contracting and Business Development, GCBDRags@sba.gov.

SUPPLEMENTARY INFORMATION:**1. Introduction**

This document describes the U. S. Small Business Administration's (SBA or Agency) proposed methodology for establishing, reviewing, or adjusting its small business size standards pursuant to the Small Business Act, 15 U.S.C. 631 *et seq.* (the "Act"). Under the Act (15 U.S.C. 632(a)(2)(A)), the SBA Administrator (Administrator) has the authority to establish small business size standards for federal government programs. This document provides a detailed description of SBA's proposed revised size standards methodology.

SBA sets the standard for what most agencies consider a small business for myriad government programs. From their inception, small business size standards were intended as the mechanism to allow small firms to compete for government contracts, obtain small business loans, obtain relief from regulatory burdens, and participate in other agency small business programs—thereby leading to their financial and economic success. However, over the years the SBA methodology turned into a ceiling in which firms forewent business growth to remain small under a seemingly unresponsive size cap. The proposed SBA methodology adjusts the prior standards that restricted such economic growth. The new standards strengthen American entrepreneurs by ensuring they are not punished for their success, resulting in lost access to capital or contracting opportunities.

The Act sets out a number of requirements for establishing size standards. For example, no concern shall be considered a small business concern unless it is independently owned and operated and is not dominant in its field of operation. *See* 15 U.S.C. 632(a)(1). In promulgating size standards, the Administration is required to vary size standards from industry to industry to reflect the differing characteristics of industries. *See* 15 U.S.C. 632(a)(3). Further, and generally, the policy decisions of the Agency should assist small businesses as a means of encouraging and strengthening their competitive position in the economy. *See* 15 U.S.C. 631(a). These considerations, along with other statutory requirements, serve as the principal basis for SBA's size standards methodology for establishing, reviewing, or modifying small business size standards.

SBA's proposed size standards methodology examines the structural characteristics of an industry or industry group as a basis to assess differences and the overall degree of

competitiveness within the industry or industry group. To ensure its size standards offer complete coverage of all areas of the economy where small businesses may compete, SBA uses the most recent revision of the North American Industry Classification System (NAICS), as a method to group similar firms. As used herein, SBA considers an industry to be a 5- or 6-digit NAICS code and an industry group to be a 4-digit NAICS code. As described more fully later in this document, SBA is examining industry structure by analyzing average market size. Average market size can be broken down into three components: first the total size of all participants in the industry group or industry, including for-profit businesses, not-for-profit entities, and government owned entities, which is referred to as the national industry size; second, the number of distinct geographic markets in which competition takes place; and finally an adjustment for imports and exports to account for international competition faced by domestic firms. Industry groups or industries with smaller average market sizes are given smaller size standards as less scale (as a matter of economics) is required in those industries for a firm to be dominant, while industries or industry groups with larger average market sizes are given larger size standards as a greater level of scale is required for a firm to be dominant. If SBA's proposed or revised size standards deviate from the analytical results based on these factors, the Agency will provide a detailed explanation in the final rulemaking.

In addition to reviewing all size standards and adjusting them, as necessary, every five years based on the analysis of industry structure in accordance with the Small Business Jobs Act of 2010 ("Jobs Act") (Pub. L. 111-240, 124 Stat. 2504, September 27, 2010), SBA also adjusts all receipt based standards for inflation at the same time. SBA has also adjusted receipt based standards for inflation between such reviews as necessary. SBA most recently adjusted size standards for inflation on November 17, 2022 (87 FR 69118). As laid out further herein, SBA is also proposing to adjust receipt-based size standards for productivity growth, and may do so between five-year reviews as necessary. SBA also updates its size standards every five years to adopt the Office of Management and Budget's (OMB) quinquennial NAICS revisions to its table of small business size standards. Effective October 1, 2022, SBA adopted the OMB's 2022 NAICS revisions (86 FR 72277; December 21,

2021) for its table of small business size standards (87 FR 59240; September 29, 2022).

2. Background on SBA's Size Standards Methodology

There is a long history of the U.S. Federal Government establishing small business size standards that predates the establishment of SBA. This section documents the statutory authority for SBA to establish small business size standards and the historical background from the original establishment of a 500-employee size standard by the Small War Plants Corporation in World War II through the most recent size standards methodology revision in 2024. This section is broken down into four parts. First is an overview of the statutory authority for SBA's establishment of small business size standards. Second is the legislative history of that statutory authority. Third is the regulatory history of SBA's implementation of that statutory authority. Last is a summary of the most recent size standards methodology from 2024, which this document is modifying. SBA requests comment on its new methodology, including on any reliance interests implicated by such methodology.

2.1 Statutory Authority

Authority for the Administrator to establish small business size standards for Federal Government programs is the Small Business Act, 15 U.S.C 632 *et seq.* (the Act). Congress has periodically modified the Act, but has not provided specific values for size standards for Federal Government purposes, other than previously for agricultural enterprises. With respect to general directions on how SBA should establish small business size standards, the Act provides the following:

15 U.S.C. 632

(a) Small Business Concerns

(1) In General.—For the purposes of this Act, a small-business concern, including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation.

(2) Establishment of Size Standards.—

(A) In General.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

(B) Additional Criteria.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.

(C) Requirements.—Unless specifically authorized by statute, no Federal department or agency (including the Administration when acting pursuant to subparagraph (A)) may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

(i) is proposed after an opportunity for public notice and comment;

(ii) provides for determining—

(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 24 months;

(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 5 years;

(III) the size of other business concerns on the basis of data over a period of not less than 3 years; or

(IV) other appropriate factors; and

(iii) is approved by the Administrator.

(3) Variation by Industry and Consideration of Other Factors.—When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.

(6) Proposed Rulemaking.—In conducting rulemaking to revise, modify or establish size standards pursuant to this section, the Administrator shall consider, and address, and make publicly available as part of the notice of proposed rulemaking and notice of final rule each of the following:

(A) a detailed description of the industry for which the new size standard is proposed;

(B) an analysis of the competitive environment for that industry;

(C) the approach the Administrator used to develop the proposed standard including the source of all data used to develop the proposed rulemaking; and

(D) the anticipated effect of the proposed rulemaking on the industry, including the number of concerns not currently considered small that would be considered small under the proposed rulemaking and the number of concerns currently considered small that would

be deemed other than small under the proposed rulemaking.

(7) Common Size Standards.—In carrying out this subsection, the Administrator may establish or approve a single size standard for a grouping of four-digit North American Industry Classification System codes only if the Administrator makes publicly available, not later than the date on which such size standard is established or approved, a justification demonstrating that such size standard is appropriate for each individual industry classification included in the grouping.

(8) Number of Size Standards.—The Administrator shall not limit the number of size standards established pursuant to paragraph (2) and shall assign the appropriate size standard to each North American Industry Classification System Code.

15 U.S.C. 632(a)(2)(A) and *id.* 632(a)(2)(B) of the Act says “the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern” and may utilize factors such as “number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.” 15 U.S.C. 632(a)(2)(C) refers to the procedures for the setting of size standards by federal agencies (including SBA) and *id.* 632(a)(3) provides that the Administrator “shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant”. This authorizes the Administrator to consider, in addition to industry data, other relevant factors, such as current economic conditions, impacts size standards changes would have on small businesses, and public comments when determining size standards.

The requirements for conducting rulemaking to establish, revise or modify size standards are stated in 15 U.S.C. 632(a)(6). The requirements for establishing a common size standard for a grouping of industries are provided in 15 U.S.C. 632(a)(7). Finally, 15 U.S.C. 632(a)(8) directs the Administrator “not limit the number of size standards established . . . and shall assign the appropriate size standard to each [NAICS] Code”. Along with the above broad statutory requirements, the Act also directs the Agency to encourage competition and to ensure that a fair proportion of total Federal purchases, contracts, and property sales be placed with small business enterprises (15 U.S.C. 631(a)). Congress went on to state that “the preservation and expansion of

such competition is basic not only to the economic well-being but to the security of this Nation.” *Id.*

Additionally, the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), authorized the Administrator to establish size standards for agricultural enterprises in the same manner as for other industries and requires a rolling review of periodic updates. Historically, the size standards for most agricultural industries were established by statute.

2.2 Legislative History

The above statutory language provides the Administrator with broad discretion in establishing, reviewing, or revising size standards. Reading the legislative history of the Act provides further insight. The requirement that a small business concern be “independently owned and operated” requires SBA to define the size of a firm together with its affiliates when calculating its size.¹ Therefore, SBA must consider not only the size of a firm but also the size of all of its affiliates (both domestic and foreign) when establishing, reviewing, or revising size standards and when determining its small business eligibility for Federal Government programs.

The Banking and Currency Committee recognized the “impossibility of attempting to write into law a rigid definition of small business.”² Therefore, section 3 of the bill defines a small business concern in a flexible and realistic manner. The Committee did this “because it has become universally recognized that it is utterly impossible to define small business rigidly in terms of number of employees, amount of capitalization, or dollar volume of business.” *Id.*

In 1957, the House Committee on Banking and Currency addressed how to characterize a small business and stated that “no single definition may be expected to meet all requirements.” Recognition of varying situations motivated the Committee in drafting the present Small Business Act to depart from rigid standards and leave the definition of small business to administrative determination.³ That same report explains that the origins of the present statutory requirement that the Agency vary the size standards from industry to industry where number of

employees is used as the criteria was the result of the Agency’s then existing flat 500-employee rule for all government contracts.

In September 2010, Congress passed the Jobs Act (“Jobs Act”) (Pub. L. 111–240, 124 Stat. 2504; September 27, 2010), requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of not less than one-third of the size standards during the 18-month period beginning on the date of enactment of this Act and during every 18-month period thereafter, which shall include holding not less than two public forums located in different geographic regions of the United States.

In accordance with section 1661 for the National Defense Authorization Act of Fiscal Year 2013 (“NDAA 2013”) (Pub. L. 112–239; Jan. 2, 2013), SBA has relaxed the limitation on the number of small business size standards. Specifically, section 1661 of NDAA 2013 states “SBA cannot limit the number of size standards, and shall assign the appropriate size standard to each industry identified by NAICS.”

Under section 1831 of the National Defense Authorization Act for Fiscal Year 2017 (NDAA 2017) (Pub. L. 114–328; December 23, 2016), Congress amended paragraph 3(a)(1) of the Act authorizing the Administrator to establish size standards for agricultural enterprises in the same manner as for other industries. The amendment also subjects size standards for agricultural enterprises to the rolling review procedures established under section 1344(a) of the Jobs Act. Historically, the size standards for most agricultural industries were established by statute.

The Small Business Runway Extension Act of 2018 (SBREA) (Pub. L. 115–324; December 17, 2018) amended section 3(a)(2)(C)(ii)(II) of the Act, 15 U.S.C. 632(a)(2)(C)(ii)(II), to modify the requirements for proposed small business size standards prescribed by an agency without separate statutory authority to issue size standards. Specifically, the SBREA changed the averaging period for calculating average annual gross receipts for size standards of services firms from three years to five years.

Section 863 of the National Defense Authorization Act for Fiscal Year 2021 (NDAA 2021) (Pub. L. 116–283; January 1, 2021) changed the averaging period for SBA’s employee based size standards from 12 months to 24 months. Section 863 of the NDAA 2021 amended two provisions of section 3(a)(2) of the

Act, which sets forth requirements for an agency that would prescribe a proposed size standard. First, the NDAA 2021 provides that those requirements also apply to SBA when the agency acts pursuant to the authority in section 3(a)(2)(A) for SBA to specify small business definitions or size standards. Second, the NDAA 2021 amended section 3(a)(2)(C)(ii)(I) such that a proposed size standard for a manufacturing concern must provide for determining the size of the concern based on the employment during each of the concern’s pay periods for the preceding 24 months. Previously, the statute specified the use of a 12-month period.

2.3 Regulatory History

Current small business size standards evolved from a limited number of general size standards for broad industry groups or sectors to a larger number of specific size standards based on individual industries. This transition was recognition that different industries had different characteristics, and thus warranted appropriate industry specific size standards. Many of today’s size standards continue at levels established right after the SBA’s inception, except that receipts-based size standards have been increased for inflation over the years.

Over the years, SBA has adopted a broad range of size standards—manufacturing industry standards ranged from 250 employees to 1,500 employees; other industry size standards ranged from \$0.10 million to \$47 million in average annual receipts. SBA establishes its size standards for industries using the latest NAICS industry definitions, developed by the Office of Management and Budget (OMB) in collaboration with U.S. Census Bureau, other U.S. Federal Statistical Agencies, and Statistical Agencies of Canada and Mexico. NAICS replaced the Standard Industrial Classification (SIC) system, effective January 1, 1997. SBA adopted NAICS as the basis for its table of size standards, effective October 1, 2000 (65 FR 30836; May 15, 2000). OMB modifies or updates NAICS every five years and SBA adopts the NAICS updates for its table of size standards, effective October 1 of the same year. SBA has opted to use October 1 because that is the start of the Federal Government’s fiscal year.

The 500-employee size standard for Federal contracting predates SBA; it was used by the Reconstruction Finance Corporation and the earlier Small War Plants Corporation, which was a World War II Government contracting agency channeling Federal contracts to small

¹ See Hearings on H.R. 4090 and H.R. 5141 before the Committee on Banking and Currency of the U.S. House of Representatives, 83rd Congress, 1st Session (1953), page 17.

² See House Report No. 494, 83rd Congress, 1st Session (1953), page 20.

³ See House Report No. 555, 85th Congress, 1st Session, page 6.

manufacturers. In 1957, the House Committee on Banking and Currency observed that “the standard of 500 or less employees originated in World War II with several variations. For the want of a better definition, the 500-employee rule generally gained acceptance in the Government, although in many instances there was considerable reluctance by many Government officials and members of Congress to accept such a rigid formula.” (See Senate Report No. 555, 85th Congress, 1st Session, page 6.)

SBA adopted 500 employees as the size standard for manufacturing industries at its 1953 inception; it has remained a size standard for many industries until today and had long been considered the “anchor” size standard for employee-based size standards. In 1959, SBA’s size regulations distinguished between manufacturing and financial industries. Specifically, the Agency adopted 250-employee, 500-employee, and 1,000-employee size standards for its financial assistance programs, but maintained the 500-employee size standard for Federal contracting programs.

Generally, the Agency has used annual receipts as the measure of size standards for nonmanufacturing industries. Soon after its inception, SBA created size standards for nonmanufacturing based on annual receipts rather than employees. In 1954, SBA established \$1 million in average annual receipts as the size standard for nonmanufacturing industries. Receipts based size standards were established subsequently for other industries. They varied between \$0.30 million and \$1 million for retail trade and services industries, between \$2 million and \$5 million for wholesale trade industries, and \$5 million for construction industries. SBA has periodically increased all receipts based size standards for inflation. With the periodic inflation adjustments, the most common receipts based size standard of \$1 million has increased to \$9 million today. The \$1 million level and its inflation-adjusted equivalents had long been considered the “anchor” size standard for industries with receipts based size standards.

By 1963, SBA receipts based size standards were as follows: \$1 million for retail trade industries; \$1 million for services industries; \$5 million for wholesale trade industries; and \$7.5 million for construction industries. SBA continued using two sets of size standards for manufacturing industries—250 employees to 1,000 employees for SBA financial programs,

but generally 500 employees for Federal contracting programs.

From 1963 to 1975, many manufacturing size standards were increased from 500 employees to 750 employees or 1,000 employees. Similarly, some services industries, such as engineering and janitorial services were broken into separate industries, with size standards of \$5 million and \$3 million, respectively.

In 1975, SBA adopted a general increase to its monetary based size standards for inflation (40 FR 32824; August 5, 1975). As a result, the new size standards were \$2 million for retail trade and services industries, \$12 million for general construction, and \$5 million for specialty trade construction. Employee based standards remained unchanged.

After a series of public notices in the **Federal Register** from 1980 to 1983 with an intent to comprehensively revise its size standards,⁴ the Agency adopted in a final rule a detailed list of size standards for industries as defined under the SIC system (49 FR 5024; February 9, 1984). Generally speaking, the size standards framework the Agency followed until the first five-year comprehensive size standards review under the Jobs Act was put in place in 1984.

In 1984, to simplify procurement procedures, SBA adopted a single size standard of 500 employees for all wholesale trade industries, for both procurement and SBA financial programs (49 FR 5024; February 9, 1984). Before that, the wholesale trade industries had a 500-employee size standard for Federal procurement and three levels of receipts based standards (\$9.5 million, \$14.5 million, and \$22 million) for SBA’s financial programs. In 1986, SBA amended its size standards for the wholesale trade industries from 500 employees to 100 employees for all SBA financial programs (51 FR 25189; July 11, 1986), while it retained 500-employee size standard for Federal procurement.

In 1992, SBA proposed, along with an inflation adjustment, a reduction in the number of size standard levels from more than forty different levels to nine receipts based size standards and five employee based size standards (57 FR 62515; December 31, 1992). SBA withdrew the proposed rule on February 19, 1993 (58 FR 9131) and re-published it on September 2, 1993 (58 FR 46573).

⁴ These include: (1) Advance Notice, 45 FR 15442; March 10, 1980; (2) Notice of Public Hearings, 45 FR 23704; April 8, 1980; (3) Public Notice, 45 FR 59587; September 10, 1980; (4) Second Advance Notice, 47 FR 18992; May 3, 1982; (5) Proposed rule, 48 FR 20560; May 6, 1983.

Although public comments overwhelmingly accepted the fixed size standards approach, the proposed levels seemed arbitrary and produced large variations in changes to standards. SBA believed it could not justify such large variations, and therefore, limited the final rule to adjusting the then existing receipts based size standards for inflation (59 FR 16513; April 7, 1994).

In March 2004, SBA proposed to simplify and restructure size standards by establishing all size standards based on number of employees (69 FR 13130; March 19, 2004). For a number of industries, however, an employee based size standard could result in businesses with very high receipts but few employees to qualify as small. There were other skewed outcomes as well, and SBA, therefore, also proposed a maximum receipts size standard along with an employee size standard for certain industries. Public comments showed that for some industries the proposed employee based standards were either too low or did not serve as a suitable measure of business size. Rather than issuing a revised proposed rule with adjusted size standards, SBA decided to seek additional input from the public.

Accordingly, in December 2004, the Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) (69 FR 70197; December 3, 2004). It sought comments on ten specific issues that the public had raised in response to the March 2004 proposed rule. SBA did not make further proposals, but only sought public comment on whether and how it should consider the following: (1) Approaches to simplification of size standards; (2) Calculation of number of employees; (3) Use of receipts based size standards; (4) Designation of size standards for Federal procurements; (5) Establishment of size standards solely for Federal procurement; (6) Establishment of tiered size standards; (7) Simplification of small business status and affiliation with other businesses; (8) Joint ventures and small business eligibility; (9) Grandfathering of currently eligible small businesses; and (10) Impact of SBA size standards on the regulations of other Federal agencies. SBA received several thousand comments on these issues, but no consensus.

In 2007, SBA began a comprehensive review of all size standards to determine whether the existing size standards were consistent with current data, and to revise them, when necessary. In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act), Public Law 111–240, 124 Stat.

2504, Sept. 27, 2010. The Jobs Act directs SBA to conduct, at least every five years, a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. SBA completed the first five-year review of size standards in early 2016 and the second five-year review of size standards in early 2023. SBA is currently in the midst of the next (third) five-year review. Across the first two reviews, SBA only decreased three size standards out of more than 1,000, in order to exclude potentially dominant firms from being considered small. The rest were either raised based on an analysis of industry features or maintained because of SBA policy decisions of not lowering size standards in both reviews.⁵

SBA modified its method for calculating average annual receipts used to prescribe size standards for small businesses (84 FR 66561; December 5, 2019). Specifically, in accordance with the Small Business Runway Extension Act of 2018, SBA changed its regulations on the calculation of average annual receipts for all of SBA's receipts based size standards, and for other agencies' proposed receipts based size standards, from a three-year averaging period to a five-year averaging period, outside of the SBA Business Loan and Disaster Loan Programs.

In accordance with NDAA 2021, SBA adopted a 24-month average to calculate a business concern's number of employees for eligibility purposes in all of SBA's programs (87 FR 34094; June 6, 2022). SBA also permitted business concerns in its Business Loan, Disaster Loan, Surety Bond, and Small Business Investment Company (SBIC) Programs to use a five-year averaging period, in addition to the existing three-year averaging period, for the purposes of calculating average annual receipts.

Currently, the most prevalent size standards are \$9 million in annual receipts for Retail Trade and Services, \$45 million for General Construction, \$19 million for Special Trade Construction, 100 employees to 250 employees for Wholesale Trade for all Federal programs except for Federal procurement where it is 500 employees under the nonmanufacturer rule, and 500 employees for manufacturing industries. Monetary based size standards range from \$2.25 million in annual receipts for some Agricultural enterprises to \$47 million in annual receipts for some Retail Trade and some

services industries. Similarly, employee based standards range from 100 employees for Fuel Dealers to 1,500 employees for some Manufacturing, Telecommunications, and Transportation industries. With exceptions of wholesale and retail trade industries, uniform size standards are now in place for all SBA's programs. Wholesale and retail trade industries have a singular 500-employee size standard for Federal procurement purposes under the nonmanufacturer rule and industry-specific size standards that apply to SBA's financial and other non-procurement Federal programs.

2.4 2024 Size Standards Methodology

On September 12, 2024, SBA adopted the current size standards methodology (89 FR 74109). It incorporated minor changes from the previously adopted version from 2019 (84 FR 14587; April 11, 2019), with the exception of inflation adjustments for monetary based size standards and adjustments to the federal contracting disparity calculations. The 2024 methodology used seven factors to determine size standards: the simple average firm size, weighted average firm size, average assets per firm, four firm concentration ratio, Gini coefficient of industry revenue, and two disparity measures of federal contracting for any industries with more than \$20 million in federal contracts. For the first five measures, SBA compared an industry's factor to that of a reference group of other industries to arrive at a factor specific size standard. For the federal contracting disparity measures, the methodology proposed an increase if small businesses were significantly below parity in terms of the number of federal contracts or contracting dollars. Once each factor specific size standard had been calculated, all seven were averaged together to arrive at a final size standard. Most size standards corresponded to a NAICS 6-digit industry, though there were some alternative size standards for specific subindustries which are heavily used in federal contracting. Lastly, while not a part of the official size standard methodology, SBA chose not to decrease size standards even when the methodology would support it except in cases where a nationally dominant firm would be classified as small.⁶

3. Grouping Industries

Since 2000, SBA has used the North American Industrial Classification

System (NAICS) 6-digit industry codes as a basis for its table of small business size standards, replacing the older Standard Industrial Classification (SIC) (65 FR 30836; May 15, 2000). Since then, the Office of Management and Budget (OMB) has issued five revisions to NAICS—NAICS 2002 (66 FR 3826; January 16, 2001), NAICS 2007 (71 FR 28532; March 16, 2006), NAICS 2012 (76 FR 51240; August 17, 2011), NAICS 2017 (81 FR 52584; August 8, 2016), and the latest 2022 (86 FR 72277; December 21, 2021) revisions. To ensure that size standards are based on latest industry definitions, SBA updates its table of size standards following the release of a new NAICS revision from OMB.

As of the most recent NAICS revision in 2022 there are 1,012 unique industries identified,⁷ with small businesses operating in 980 of those.⁸ With this level of disaggregation, many of the distinctions made are not relevant to businesses, except as it relates to their small business status. For example, there are four different NAICS 6-digit codes for Restaurants: 722511 (Full-Service Restaurants), 722513 (Limited-Service Restaurants), 722514 (Cafeterias, Grill Buffets, and Buffets), and 722515 (Snack and Nonalcoholic Beverage Bars). Choosing which code is correct for most restaurants might be straightforward, but there are edge cases which could create unnecessary confusion. Some restaurants may serve customers with a buffet for lunch so that customers can eat more quickly before returning to work, but as a traditional sit-down restaurant for dinner. Under the current size standards, such a restaurant would have to determine their industry by looking at which type of service generates the majority of its revenue—a relevant distinction as buffets have a size standard that is nearly 3 times higher than full-service restaurants (\$34 million in receipts vs. \$11.5 million).⁹

SBA size standards are used by a wide range of practitioners, many of whom do not have a nuanced understanding of the nearly 1,000 NAICS 6-digit Industries containing small businesses. The SBA is proposing to establish certain size standards at the NAICS 4-digit Industry Group instead of at a lower 5-digit or 6-digit Industry level for industries as allowed under 15 U.S.C. 632(a)(7), where appropriate. Grouping

⁷ 2022 NAICS Manual—Office of Management and Budget.

⁸ Small businesses cannot operate in NAICS 491110 (Postal Service), 521110 (Monetary Authorities—Central Bank), 814110 (Private Households), and 29 industries in NAICS Sector 92 (Public Administration).

⁹ 13 CFR 121.201.

⁵ Size standards in the first five-year review were not lowered due to lingering impacts of the 2007–2009 Great Recession. Size standards in the second five-year review were not lowered due to disruptions because of the COVID–19 Pandemic.

⁶ Small Business Size Standards: Monetary-Based Industry Size Standards (90 FR 41168 August 22, 2025)

at the 4-digit level will allow small businesses to more easily determine where their business fits within the federal government ecosystem, in turn providing them an easier entry to federal contracting and other services that may be available to them.

Additionally, grouping at the 4-digit level will help prevent the issue of contracting officers at federal agencies choosing the improper industry and corresponding size standard for contracts up for bid, which has in turn restricted opportunities for small businesses that should have been eligible to compete SBA believes setting size standards at the 4-digit level where appropriate will thus foster a more competitive environment where small businesses can earn revenue and grow.

The SBA's proposed justification for grouping industries at the 4-digit level is based on two criteria with a single size standard chosen for industries if either criterion is met. In such instances, SBA believes that a single size standard is appropriate for all industries within such 4-digit level. When neither criterion is met, the SBA believes a single size standard at the 4-digit level is inappropriate and proposes to use the 5-digit Industry as the level for size standard classification. Because the NAICS framework is hierarchical, size standards proposed at the 4-digit Industry Group will continue to ensure complete coverage of small businesses

as each 6-digit Industry is nested inside a single 4-digit Industry Group.¹⁰

The first is to see if the 4-digit NAICS Industry Group is at or below the lowest level of the hierarchy where the United States, Canada and Mexico are in agreement. Because the three countries are in agreement on these industry definitions but not the lower industries, there is an understanding that these industries are similar enough for cross-country purposes. Further delineation is therefore only used within the United States, and as such the distinctions are more nuanced. Take Oil and Gas Extraction (NAICS 2111), one of the Industry Groups where the three countries have chosen not to delineate further. The United States has chosen to further break the Industry Group down into Crude Petroleum Extraction (NAICS 211120) and Natural Gas Extraction (NAICS 211130). While the two primary commodities produced are distinct, both are often collocated in the same field, leading many firms to produce both. As such the 2022 NAICS manual includes a cross-reference for how to classify establishments.¹¹ Of the 297 Industry

¹⁰ For example, the NAICS Industry Group 3352 Household Appliance Manufacturing contains two 6-digit Industries: 335210 Small Electrical Appliance Manufacturing and 335220 Major Household Appliance Manufacturing. Because the SBA is proposing a unified size standard for the Industry Group it will apply to both Industries.

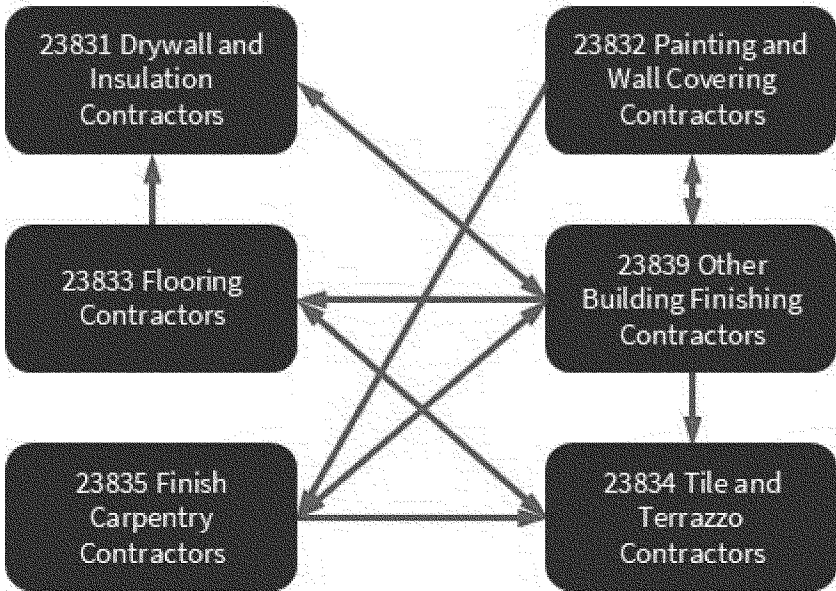
¹¹ The cross-reference is as follows: "combined activities of crude petroleum and natural gas

Groups which may include small businesses, 189 are at or below the lowest level of the NAICS hierarchy. Additionally, all 5-digit NAICS Industries satisfy this criterion.

The second is to see if the cross-references in the 2022 NAICS manual create a complete graph of 5-digit industries within a 4-digit industry group. This means that every 5-digit industry is reachable, either directly or indirectly through a series of cross-references. The most common way this is achieved is by one or more 5-digit industries sharing cross-references with every other industry. Figure 1 shows such an example in Building Finishing Contractors (NAICS 2383), where the 5-digit Industry Other Building Finishing Contractors (23839) references the other five industries. For only two industry groups, Beverage Manufacturers (NAICS 3121) and Basic Chemical Manufacturers (NAICS 3251), is a longer path requiring two intermediary 5-digit industries for some pairs of industries. Figure 2 shows the cross-references for Beverage Manufacturers for reference. Of the 297 Industry Groups which include small businesses, 263 contain a complete graph of 5-digit industries.

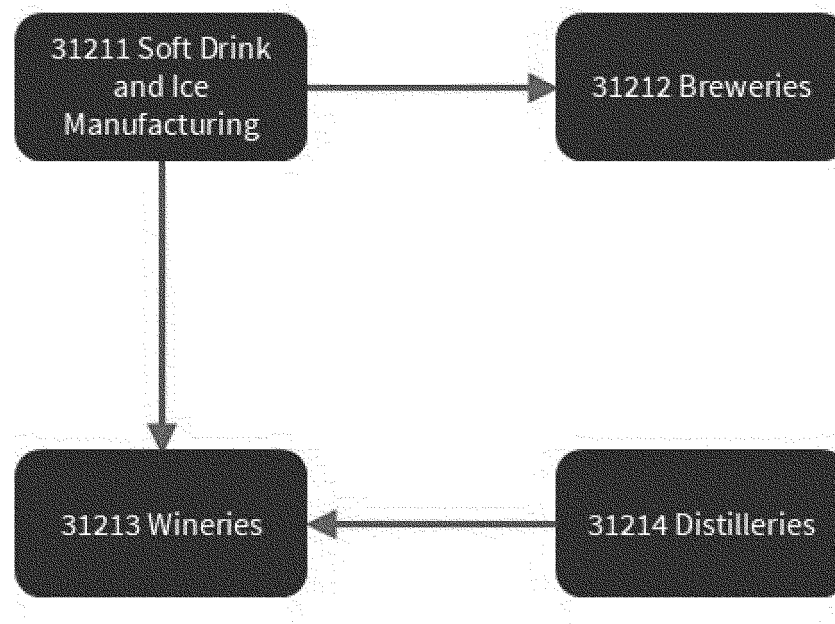
extraction—are classified in Industry Group 2111, Oil and Gas Extraction, based on the primary activity of the establishment" 2022 NAICS Manual—Office of Management and Budget.

Figure 1: Cross-References for the Building Finishing Contractors Industry Group (NAICS 2383)



Note: Cross-references were gathered from the 2022 NAICS Industry Cross-References Excel workbook available at NAICS Downloadable Files - Census Bureau. Arrows indicate the direction of the cross-reference.

Figure 2: Cross-References for the Beverage Manufacturing Industry Group (NAICS 3121)



Note: Cross-references were gathered from the 2022 NAICS

Industry Cross-References Excel workbook available at NAICS

Downloadable Files - Census Bureau. Arrows indicate the

direction of the cross-reference.

When used in conjunction, the two proposed criteria indicate that 276 Industry Groups meet the criteria to use Industry Group, while 21 do not meet the two-part test being utilized. Of those which meet Industry Grouping criteria, 176 satisfy both criteria, 13 meet the

cross-country criterion, and 87 meet the cross-reference criterion. The results for each industry group are shown in Table 1 along with the number of 6-digit NAICS industries that are contained in each. Based on these results, the SBA is proposing 338 size standards, 276 at the

4-digit Industry Group level and 62 at the 5-digit Industry level. This is a significant reduction from the current table which includes 995 size standards.

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Table 1: Industry Group Criteria Results

NAICS	Description	Number of 6-digit Industries	Cross- Country Test	Cross- Reference Test
1111	Oilseed and Grain Farming	8	No	Yes
1112	Vegetable and Melon Farming	2	Yes	Yes
1113	Fruit and Tree Nut Farming	9	No	Yes
1114	Greenhouse, Nursery, and Floriculture Production	4	No	No
1119	Other Crop Farming	7	No	Yes
1121	Cattle Ranching and Farming	4	No	Yes
1122	Hog and Pig Farming	1	Yes	Yes
1123	Poultry and Egg Production	5	No	No
1124	Sheep and Goat Farming	2	No	No
1125	Aquaculture	3	Yes	Yes
1129	Other Animal Production	4	No	Yes
1131	Timber Tract Operations	1	Yes	Yes
1132	Forest Nurseries and Gathering of Forest Products	1	Yes	Yes
1133	Logging	1	Yes	Yes
1141	Fishing	3	Yes	Yes
1142	Hunting and Trapping	1	Yes	Yes
1151	Support Activities for Crop Production	6	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
1152	Support Activities for Animal Production	1	Yes	Yes
1153	Support Activities for Forestry	1	Yes	Yes
2111	Oil and Gas Extraction	2	Yes	Yes
2121	Coal Mining	2	Yes	Yes
2122	Metal Ore Mining	4	No	Yes
2123	Nonmetallic Mineral Mining and Quarrying	8	No	Yes
2131	Support Activities for Mining	5	Yes	Yes
2211	Electric Power Generation, Transmission and Distribution	10	No	Yes
2212	Natural Gas Distribution	1	Yes	Yes
2213	Water, Sewage and Other Systems	3	Yes	No
2361	Residential Building Construction	4	Yes	Yes
2362	Nonresidential Building Construction	2	No	Yes
2371	Utility System Construction	3	No	No
2372	Land Subdivision	1	Yes	Yes
2373	Highway, Street, and Bridge Construction	1	Yes	Yes
2379	Other Heavy and Civil Engineering Construction	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
2381	Foundation, Structure, and Building Exterior Contractors	8	Yes	Yes
2382	Building Equipment Contractors	3	No	No
2383	Building Finishing Contractors	6	No	Yes
2389	Other Specialty Trade Contractors	2	No	Yes
3111	Animal Food Manufacturing	2	Yes	Yes
3112	Grain and Oilseed Milling	7	No	Yes
3113	Sugar and Confectionery Product Manufacturing	5	No	No
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing	5	No	No
3115	Dairy Product Manufacturing	5	No	Yes
3116	Animal Slaughtering and Processing	4	Yes	Yes
3117	Seafood Product Preparation and Packaging	1	Yes	Yes
3118	Bakeries and Tortilla Manufacturing	6	No	No
3119	Other Food Manufacturing	8	No	Yes
3121	Beverage Manufacturing	6	No	Yes
3122	Tobacco Manufacturing	1	Yes	Yes
3131	Fiber, Yarn, and Thread Mills	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3222	Converted Paper Product Manufacturing	7	No	Yes
3231	Printing and Related Support Activities	4	No	Yes
3241	Petroleum and Coal Products Manufacturing	5	No	Yes
3251	Basic Chemical Manufacturing	7	No	Yes
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing	3	No	No
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	5	No	Yes
3254	Pharmaceutical and Medicine Manufacturing	4	Yes	Yes
3255	Paint, Coating, and Adhesive Manufacturing	2	No	Yes
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	4	No	Yes
3259	Other Chemical Product and Preparation Manufacturing	5	No	Yes
3261	Plastics Product Manufacturing	11	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3262	Rubber Product Manufacturing	5	No	Yes
3271	Clay Product and Refractory Manufacturing	2	No	Yes
3272	Glass and Glass Product Manufacturing	4	Yes	Yes
3273	Cement and Concrete Product Manufacturing	5	No	No
3274	Lime and Gypsum Product Manufacturing	2	No	No
3279	Other Nonmetallic Mineral Product Manufacturing	5	No	Yes
3311	Iron and Steel Mills and Ferroalloy Manufacturing	1	Yes	Yes
3312	Steel Product Manufacturing from Purchased Steel	3	No	No
3313	Alumina and Aluminum Production and Processing	4	Yes	Yes
3314	Nonferrous Metal (except Aluminum) Production and Processing	4	No	Yes
3315	Foundries	6	No	No
3321	Forging and Stamping	5	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3322	Cutlery and Handtool Manufacturing	2	Yes	Yes
3323	Architectural and Structural Metals Manufacturing	6	No	Yes
3324	Boiler, Tank, and Shipping Container Manufacturing	4	No	Yes
3325	Hardware Manufacturing	1	Yes	Yes
3326	Spring and Wire Product Manufacturing	2	Yes	Yes
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	3	No	Yes
3328	Coating, Engraving, Heat Treating, and Allied Activities	3	Yes	Yes
3329	Other Fabricated Metal Product Manufacturing	10	No	Yes
3331	Agriculture, Construction, and Mining Machinery Manufacturing	5	No	Yes
3332	Industrial Machinery Manufacturing	4	Yes	Yes
3333	Commercial and Service Industry Machinery Manufacturing	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3334	Ventilation, Heating, Air- Conditioning, and Commercial Refrigeration Equipment Manufacturing	3	Yes	Yes
3335	Metalworking Machinery Manufacturing	5	Yes	Yes
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	4	Yes	Yes
3339	Other General Purpose Machinery Manufacturing	13	No	Yes
3341	Computer and Peripheral Equipment Manufacturing	3	Yes	Yes
3342	Communications Equipment Manufacturing	3	No	Yes
3343	Audio and Video Equipment Manufacturing	1	Yes	Yes
3344	Semiconductor and Other Electronic Component Manufacturing	6	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	9	Yes	Yes
3346	Manufacturing and Reproducing Magnetic and Optical Media	1	Yes	Yes
3351	Electric Lighting Equipment Manufacturing	3	Yes	Yes
3352	Household Appliance Manufacturing	2	No	Yes
3353	Electrical Equipment Manufacturing	4	Yes	Yes
3359	Other Electrical Equipment and Component Manufacturing	7	No	Yes
3361	Motor Vehicle Manufacturing	2	No	Yes
3362	Motor Vehicle Body and Trailer Manufacturing	4	Yes	Yes
3363	Motor Vehicle Parts Manufacturing	8	No	Yes
3364	Aerospace Product and Parts Manufacturing	6	Yes	Yes
3365	Railroad Rolling Stock Manufacturing	1	Yes	Yes
3366	Ship and Boat Building	2	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
3369	Other Transportation Equipment Manufacturing	3	Yes	Yes
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	5	No	Yes
3372	Office Furniture (including Fixtures) Manufacturing	4	Yes	Yes
3379	Other Furniture Related Product Manufacturing	2	No	No
3391	Medical Equipment and Supplies Manufacturing	5	Yes	Yes
3399	Other Miscellaneous Manufacturing	11	No	Yes
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	4	Yes	No
4232	Furniture and Home Furnishing Merchant Wholesalers	2	Yes	No
4233	Lumber and Other Construction Materials Merchant Wholesalers	4	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers	7	Yes	No
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers	2	Yes	No
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers	3	Yes	Yes
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	4	Yes	No
4238	Machinery, Equipment, and Supplies Merchant Wholesalers	6	Yes	No
4239	Miscellaneous Durable Goods Merchant Wholesalers	5	Yes	Yes
4241	Paper and Paper Product Merchant Wholesalers	3	Yes	Yes
4242	Drugs and Druggists' Sundries Merchant Wholesalers	1	Yes	Yes
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	3	Yes	No

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4244	Grocery and Related Product Merchant Wholesalers	9	Yes	Yes
4245	Farm Product Raw Material Merchant Wholesalers	3	Yes	Yes
4246	Chemical and Allied Products Merchant Wholesalers	2	Yes	Yes
4247	Petroleum and Petroleum Products Merchant Wholesalers	2	Yes	Yes
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	2	Yes	No
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	6	Yes	Yes
4251	Wholesale Trade Agents and Brokers	1	Yes	Yes
4411	Automobile Dealers	2	Yes	Yes
4412	Other Motor Vehicle Dealers	3	Yes	Yes
4413	Automotive Parts, Accessories, and Tire Retailers	2	Yes	Yes
4441	Building Material and Supplies Dealers	4	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4442	Lawn and Garden Equipment and Supplies Retailers	2	Yes	No
4451	Grocery and Convenience Retailers	3	Yes	Yes
4452	Specialty Food Retailers	6	Yes	Yes
4453	Beer, Wine, and Liquor Retailers	1	Yes	Yes
4491	Furniture and Home Furnishings Retailers	4	Yes	Yes
4492	Electronics and Appliance Retailers	1	Yes	Yes
4551	Department Stores	1	Yes	Yes
4552	Warehouse Clubs, Supercenters, and Other General Merchandise Retailers	2	Yes	Yes
4561	Health and Personal Care Retailers	5	Yes	Yes
4571	Gasoline Stations	2	Yes	Yes
4572	Fuel Dealers	1	Yes	Yes
4581	Clothing and Clothing Accessories Retailers	1	Yes	Yes
4582	Shoe Retailers	1	Yes	Yes
4583	Jewelry, Luggage, and Leather Goods Retailers	2	Yes	No

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4591	Sporting Goods, Hobby, and Musical Instrument Retailers	4	Yes	No
4592	Book Retailers and News Dealers	1	Yes	Yes
4593	Florists	1	Yes	Yes
4594	Office Supplies, Stationery, and Gift Retailers	2	Yes	Yes
4595	Used Merchandise Retailers	1	Yes	Yes
4599	Other Miscellaneous Retailers	5	Yes	Yes
4811	Scheduled Air Transportation	2	Yes	Yes
4812	Nonscheduled Air Transportation	3	Yes	Yes
4821	Rail Transportation	2	Yes	Yes
4831	Deep Sea, Coastal, and Great Lakes Water Transportation	4	Yes	Yes
4832	Inland Water Transportation	2	Yes	Yes
4841	General Freight Trucking	3	No	Yes
4842	Specialized Freight Trucking	3	No	Yes
4851	Urban Transit Systems	4	Yes	Yes
4852	Interurban and Rural Bus Transportation	1	Yes	Yes
4853	Taxi and Limousine Service	2	No	Yes
4854	School and Employee Bus Transportation	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4855	Charter Bus Industry	1	Yes	Yes
4859	Other Transit and Ground Passenger Transportation	2	Yes	Yes
4861	Pipeline Transportation of Crude Oil	1	Yes	Yes
4862	Pipeline Transportation of Natural Gas	1	Yes	Yes
4869	Other Pipeline Transportation	2	No	Yes
4871	Scenic and Sightseeing Transportation, Land	1	Yes	Yes
4872	Scenic and Sightseeing Transportation, Water	1	Yes	Yes
4879	Scenic and Sightseeing Transportation, Other	1	Yes	Yes
4881	Support Activities for Air Transportation	3	No	Yes
4882	Support Activities for Rail Transportation	1	Yes	Yes
4883	Support Activities for Water Transportation	4	No	Yes
4884	Support Activities for Road Transportation	2	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
4885	Freight Transportation Arrangement	1	Yes	Yes
4889	Other Support Activities for Transportation	2	Yes	Yes
4921	Couriers and Express Delivery Services	1	Yes	Yes
4922	Local Messengers and Local Delivery	1	Yes	Yes
4931	Warehousing and Storage	4	No	Yes
5121	Motion Picture and Video Industries	6	No	Yes
5122	Sound Recording Industries	4	No	Yes
5131	Newspaper, Periodical, Book, and Directory Publishers	6	No	Yes
5132	Software Publishers	1	Yes	Yes
5161	Radio and Television Broadcasting Stations	2	No	No
5162	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
5171	Wired and Wireless Telecommunications (except Satellite)	4	Yes	Yes
5174	Satellite Telecommunications	1	Yes	Yes
5178	All Other Telecommunications	1	Yes	Yes
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	1	Yes	Yes
5192	Web Search Portals, Libraries, Archives, and Other Information Services	2	No	Yes
5221	Depository Credit Intermediation	3	Yes	Yes
5222	Nondepository Credit Intermediation	5	Yes	Yes
5223	Activities Related to Credit Intermediation	3	Yes	Yes
5231	Securities and Commodity Contracts Intermediation and Brokerage	2	Yes	No
5232	Securities and Commodity Exchanges	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
5239	Other Financial Investment Activities	4	Yes	Yes
5241	Insurance Carriers	6	Yes	Yes
5242	Agencies, Brokerages, and Other Insurance Related Activities	4	Yes	Yes
5251	Insurance and Employee Benefit Funds	3	Yes	Yes
5259	Other Investment Pools and Funds	3	Yes	Yes
5311	Lessors of Real Estate	4	Yes	Yes
5312	Offices of Real Estate Agents and Brokers	1	Yes	Yes
5313	Activities Related to Real Estate	4	Yes	Yes
5321	Automotive Equipment Rental and Leasing	3	No	Yes
5322	Consumer Goods Rental	6	No	Yes
5323	General Rental Centers	1	Yes	Yes
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	4	No	Yes
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	1	Yes	Yes
5411	Legal Services	4	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services	4	Yes	Yes
5413	Architectural, Engineering, and Related Services	8	No	No
5414	Specialized Design Services	4	No	Yes
5415	Computer Systems Design and Related Services	4	Yes	Yes
5416	Management, Scientific, and Technical Consulting Services	7	No	Yes
5417	Scientific Research and Development Services	4	No	No
5418	Advertising, Public Relations, and Related Services	8	No	Yes
5419	Other Professional, Scientific, and Technical Services	6	No	Yes
5511	Management of Companies and Enterprises	3	Yes	Yes
5611	Office Administrative Services	1	Yes	Yes
5612	Facilities Support Services	1	Yes	Yes
5613	Employment Services	4	No	Yes
5614	Business Support Services	10	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
5615	Travel Arrangement and Reservation Services	4	No	Yes
5616	Investigation and Security Services	5	No	Yes
5617	Services to Buildings and Dwellings	5	No	Yes
5619	Other Support Services	3	No	Yes
5621	Waste Collection	3	Yes	Yes
5622	Waste Treatment and Disposal	4	Yes	Yes
5629	Remediation and Other Waste Management Services	4	Yes	Yes
6111	Elementary and Secondary Schools	1	Yes	Yes
6112	Junior Colleges	1	Yes	Yes
6113	Colleges, Universities, and Professional Schools	1	Yes	Yes
6114	Business Schools and Computer and Management Training	3	No	Yes
6115	Technical and Trade Schools	4	Yes	Yes
6116	Other Schools and Instruction	6	No	Yes
6117	Educational Support Services	1	Yes	Yes
6211	Offices of Physicians	2	Yes	Yes
6212	Offices of Dentists	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
6213	Offices of Other Health Practitioners	6	No	Yes
6214	Outpatient Care Centers	6	No	Yes
6215	Medical and Diagnostic Laboratories	2	Yes	Yes
6216	Home Health Care Services	1	Yes	Yes
6219	Other Ambulatory Health Care Services	3	No	Yes
6221	General Medical and Surgical Hospitals	1	Yes	Yes
6222	Psychiatric and Substance Abuse Hospitals	1	Yes	Yes
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	1	Yes	Yes
6231	Nursing Care Facilities (Skilled Nursing Facilities)	1	Yes	Yes
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities	2	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly	2	Yes	Yes
6239	Other Residential Care Facilities	1	Yes	Yes
6241	Individual and Family Services	3	No	Yes
6242	Community Food and Housing, and Emergency and Other Relief Services	4	No	No
6243	Vocational Rehabilitation Services	1	Yes	Yes
6244	Child Care Services	1	Yes	Yes
7111	Performing Arts Companies	4	No	Yes
7112	Spectator Sports	3	Yes	Yes
7113	Promoters of Performing Arts, Sports, and Similar Events	2	No	Yes
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	1	Yes	Yes
7115	Independent Artists, Writers, and Performers	1	Yes	Yes
7121	Museums, Historical Sites, and Similar Institutions	4	No	No
7131	Amusement Parks and Arcades	2	No	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
7132	Gambling Industries	2	No	Yes
7139	Other Amusement and Recreation Industries	6	No	Yes
7211	Traveler Accommodation	4	No	Yes
7212	RV (Recreational Vehicle) Parks and Recreational Camps	2	Yes	Yes
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps	1	Yes	Yes
7223	Special Food Services	3	No	Yes
7224	Drinking Places (Alcoholic Beverages)	1	Yes	Yes
7225	Restaurants and Other Eating Places	4	Yes	Yes
8111	Automotive Repair and Maintenance	7	No	Yes
8112	Electronic and Precision Equipment Repair and Maintenance	1	Yes	Yes
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	1	Yes	Yes

NAICS	Description	Number of	Cross-	Cross-
		6-digit	Country	Reference
		Industries	Test	Test
8114	Personal and Household Goods	5	No	Yes
	Repair and Maintenance			
8121	Personal Care Services	5	Yes	Yes
8122	Death Care Services	2	Yes	Yes
8123	Drycleaning and Laundry Services	4	Yes	Yes
8129	Other Personal Services	5	Yes	Yes
8131	Religious Organizations	1	Yes	Yes
8132	Grantmaking and Giving Services	3	Yes	Yes
8133	Social Advocacy Organizations	3	Yes	Yes
8134	Civic and Social Organizations	1	Yes	Yes
8139	Business, Professional, Labor,	5	Yes	Yes
	Political, and Similar			
	Organizations			

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As OMB issues new updates to NAICS, SBA will continue to match its size standards definition to the latest version. When SBA proposed to replace SIC with NAICS 1997 as the basis of industry definitions for its table of small business size standards, it established a set of guidelines or rules to convert the size standards from industries under SIC to those under NAICS (64 FR 57188; October 22, 1999). The guidelines aimed to minimize the impact of applying a new industry classification system on

SBA's size standards and on small businesses that qualified as small under the SIC based size standards. SBA received no negative comments against the proposed guidelines. SBA published the final rule on May 15, 2000 (65 FR 30386) (corrected on September 5, 2000 (65 FR 53533)) adopting the resulting table of size standards based on NAICS 1997, as proposed. To be consistent, SBA also applied the same guidelines when it updated its table of size standards to adopt NAICS 2002 (67 FR 52597; August 13, 2002), NAICS 2007

(72 FR 49639; August 29, 2007), NAICS 2012 (77 FR 49991; August 20, 2012), NAICS 2017 (82 FR 44886; September 27, 2017), and NAICS 2022 revisions (87 FR 59240; September 29, 2022). In all those updates, SBA received no adverse comments on using those guidelines, or on the resulting changes to the size standards. Those guidelines are shown below in Table 1, General Guidelines to Convert Size Standards from Old NAICS to New NAICS Industries.

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Table 2: General Guidelines to Convert Size Standards from Old NAICS to New NAICS

Categories

If new NAICS industry is composed of:	The size standard for the new industry will be:
1 A single old NAICS industry (cx. 5-digit and 6-digit NAICS) or part of a single old NAICS industry	The same size standard as for the old NAICS industry or part.
2 Two or more old NAICS industries; two or more parts of an old industry; parts of two or more old NAICS industries; or one or more old NAICS industries and part(s) of one or more old NAICS industries	The same size standard as for the old NAICS industries or parts.
2a they all have the same size standard	The same size standard as for the old NAICS industries or parts.
2b they all have the same size measure (e.g., receipts, employees, etc.) but do not all have the same size standard	The same size standard as for the old NAICS industry or part that most closely matches the economic activity described by the new NAICS industry, or The highest size standard among the old NAICS industries and part(s) that comprise the new NAICS industry, provided that the highest size standard does not

	include dominant or potentially dominant firms.
2c they have different size measures (i.e., for example, some are based on receipts and others on employees) and hence do not all have the same size standard	The same size standard as for the old NAICS industry or part that most closely matches the economic activity described by the new NAICS industry, or The highest size standard among the old NAICS industries and part(s) that comprise the new NAICS industry, provided that the highest size standard does not include dominant or potentially dominant firms. To apply this rule, SBA converts all size standards to a single measure (e.g., receipts, employees, etc.) using the size measure for the old NAICS industry or part(s) that most closely match the economic activity described by the new NAICS industry or using the size measure that applies to most of the old NAICS industries or parts comprising the new NAICS industry.

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In addition to the above general guidelines, in cases where a new industry group or industry is formed by merging multiple industry groups or industries or their parts with substantially different levels or different measures of size standards, SBA also examines the relevant latest industry and Federal procurement data to determine an appropriate size standard for the new industry group or industry.

4. Selection of Size Measure

SBA has primarily used two measures of business size for its size standards—receipts and number of employees.¹²

¹² Besides receipts and employees, the current size standards include two other measures for determining size standards. For Commercial Banking (NAICS 522110), Credit Unions (NAICS 522130), Credit Card Issuing (NAICS 522210), and Savings Institutions and Other Depository Credit Intermediation (NAICS 522180) the size standard is defined as \$850 million in total assets, and was chosen because it was “the most commonly accepted measure of bank size” in 1984 (49 FR 40399). For Petroleum Refineries (NAICS 324110)

Both are statutorily required for businesses depending on business activity. Businesses providing services are required to have a receipts based

the size standard is defined both in terms of employees and barrels of oil refined per day, again because it was considered a better indicator of size for a single petroleum refinery (57 FR 542). SBA is proposing to replace this standard with just an employment number because employment requires less adjustment as productivity improves. For example, 1992 SBA has raised the barrels of oil part of the size standard 3 times (57 FR 18808; May 1, 1992, 68 FR 15047; March 28, 2003, and 81 FR 4469; January 26, 2016).

size standard,¹³ and those in manufacturing are required to have an employment based size standard.¹⁴ In addition, the SBA is afforded the authority to use additional factors as appropriate. For all but one industry, Fishing (NAICS 1141), where Congress has delegated the determination to SBA, SBA proposes to use an employment based size standard. SBA's choice is intended to minimize the number of businesses that fluctuate between small and large each year, as such fluctuation makes it more difficult for businesses to strategically plan, for example, their capital and contracting opportunities, and for federal agencies to likewise evaluate what businesses may be eligible to bid on small business contracts on a year-over-year basis. SBA believes this goal is achievable by deferring to employment-based size standards over receipts where possible because of the lower volatility in employment year to year as compared to receipts.¹⁵ The Act itself reflects the greater stability of employment relative to receipts, as receipt based size standard determinations are based on the average receipts over five years, while employment based size on average employment over two years.

There are other additional benefits to deferring to employment-based size standards where available. First, greater use of employment-based size standards should also benefit small Federal contractors, as the act of winning a contract will not by itself force a firm to transition into a large business. Second, it will put businesses in high cost of living areas on equal footing with those in low cost of living areas, as high input costs create greater disparities in

receipts across the country than employment. For example, restaurants in Manhattan, New York earn \$120 thousand in receipts per employee, while those in Manhattan, Kansas earn just \$49 thousand.¹⁶ Lastly, employment-based size standards are robust to both inflation and productivity growth and thus require less frequent updating by SBA. During the periods between adjustments, some businesses lose their small business status only to regain it upon the adjustment. In its most recent rule increasing monetary size standards for inflation, for example, 17,713 firms were expected to regain small businesses status as a result of the rule.¹⁷

SBA considered leaving size standards receipts-based where SBA has the discretion to choose the appropriate size standard, but elected not to do so for the reasons discussed above. In deciding whether to shift such size standards from receipts-based to employment-based, SBA considered the potential costs of doing so, including regulatory familiarization. SBA determined that the benefits outweighed the costs and is thus proposing such shifts.

SBA also proposes to end all 18 size standards exceptions for Federal contracting. SBA believes that the other changes made to this document serve to ameliorate the issues these exceptions attempted to address in a patchwork manner. In particular, for all but one exception, the proposed size standards outlined in the accompanying Notice of Proposed Rulemaking for each industry are larger than the exception under that

industry. None of the firms using these exemptions are expected to lose small business status as a result of the proposed changes, other than potentially Environmental Remediation Services an exception to NAICS 56291 which currently has an employee based size standard. The proposed methodology would result in a size standard for NAICS 5629 and subsequent NAICS at the 5 and 6 digit level at \$113 million in receipts. SBA requests comment on any impact in that exception, as well as on whether any other exceptions for federal contracting are needed under the new methodology and should remain.

To identify industry groups and industries appropriate to transition to employment based size standards, the SBA must first determine whether receipts-based size standards are required under 15 U.S.C. 632(a)(2)(C)(ii)(II). The SBA proposes to do this by considering whether the industry group or industry is predominantly service-oriented by, in turn, considering whether the industry group or industry is focused on the transfer of ownership or practical control of a tangible item. Regardless of the magnitude of the labor investment in the industry, the focus here is on the contract and the product provided to the customer. To make this determination, SBA is using a three-step process for each industry group or industry considered. First, is to identify what kind of physical objects are being transferred by an industry group or industry. Second is to determine if the industry group or industry primarily exists to transfer such objects. Third is to determine if ownership or long-term practical control of the object is being transferred. Only if all three components of the test are satisfied is an industry group or industry considered a non-service. The test is laid out in Figure 3 below.

¹³ 15 U.S.C. 632(a)(2)(C)(ii)(II).

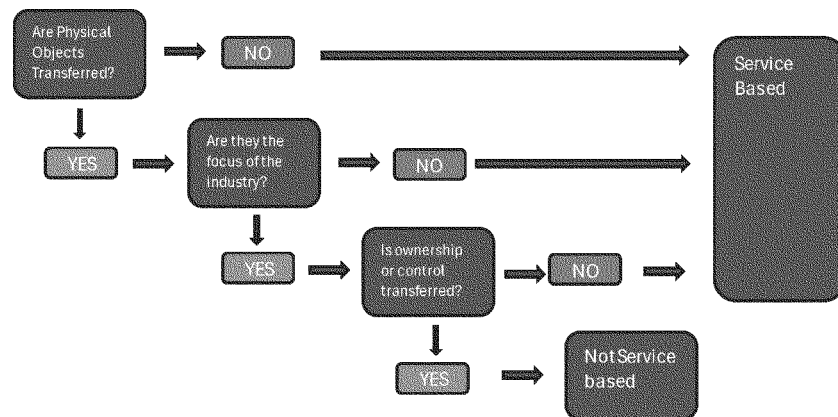
¹⁴ 15 U.S.C. 632(a)(2)(C)(ii)(I).

¹⁵ Across the entire economy, the variation in total employment is just 44 percent of the variation in total real output (Federal Reserve Economic Data—St. Louis Federal Reserve Bank)

¹⁶ According to the 2022 Statistics of U.S. Businesses. Manhattan, New York number is taken from the receipts and employment in the Food Services and Drinking Places Subsector (NAICS 722) for New York County, New York, while the Manhattan, Kansas number is taken from the receipts and employment in the same subsector for Riley County, Kansas.

¹⁷ 88 FR 46048.

Figure 3: Test for Identifying Service-Based Industry Groups



To illustrate how the test works, the SBA has provided examples of industry groups which fail each specific part of the test and one which satisfies all three to be considered other than service. An industry group which would fail the first test (are physical objects transferred) is Elementary and Secondary Schools (NAICS 6111). The industry group provides knowledge to children with little to no physical objects given. An industry group which would fail the second test (are physical objects the focus of business) is Legal Services (NAICS 5411). The industry group does provide physical objects such as contract documents, but legal firms primarily offer their legal expertise which is intangible. An industry group which would fail the final test (is ownership or control transferred) is General Freight Trucking (NAICS 4841). This industry is primarily focused on moving objects around, however it does so without a

change in ownership. Trucking firms do not typically purchase what they are hauling to then resell it upon arriving at their destination, but instead move goods on a contract basis. Finally, an industry group which satisfies all three parts is Oil and Gas Extraction (NAICS 2111). In it, oil and gas is brought up out of the ground after which it is sold and ownership is transferred.

As the SBA has not previously made a systematic determination of whether an industry group or industry can be classified as other than service, it evaluated all 192 industry groups and industries which currently have a receipts based size standard and 2 NAICS industry groups with a mix of employment and receipts based size standards where the industries with an employment based size standard generated a minority of total receipts.¹⁸ Of these, the SBA is proposing that 66 can be classified as other than service, and proposes that 65 to transition to

employment based on the test described above. Regarding the one remaining industry group, Fishing (NAICS 1141), the SBA is proposing to keep as receipts based due to the heavy use of independent contractors rather than employees to work on commercial fishing boats. Based on a combination of data from the Statistics of U.S. Businesses and the Nonemployer Statistics, the SBA found that 57 percent of receipts in the industry group were generated by nonemployers, far higher than any other industry group with a proposed employment based size standard. An explanation for each is provided in Table 3. SBA requests comment on such transitions, including on whether a receipts-based size standard based on the methodology herein is more appropriate for any industries or industry groups.

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¹⁸ Five other industry groups: Automotive Dealers (NAICS 4411), Nonscheduled Air Transportation (NAICS 4812), Other Pipeline Transportation (NAICS 4869), Sound Recording Industries (NAICS 5122), and Web Search Portals, Libraries, Archives,

and Other Information Services (NAICS 5192) have industries with employment based size standards currently producing the majority of receipts and are given an employment based size standard based on that criteria. Using a similar test the one industry

with a mix of asset and receipt based size standards, Nondepository Credit Intermediation (NAICS 5222) is given a receipts based size standard.

Table 3: Industries Suitable for Transitioning to Employment Based Size Standards

NAICS	Reasoning
111 Crop Production (includes 111110, 111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336, 111339, 111411, 111419, 111421, 111422, 111910, 111920, 111930, 111940, 111991, 111992, and 111998)	Industries in this subsector focus on growing various crops (soybeans, wheat, corn, etc.), which is a type of goods production. Once crops have reached maturity, they are harvested and sold at which point ownership is transferred. Conclusion: Other than service
112 Animal Production and Aquaculture (includes 112111, 112112, 112120, 112130, 112210, 112310, 112320, 112330, 112340, 112390, 112410, 112420, 112511, 112512, 112519, 112910, 112920, 112930, and 112990)	Industries in this subsector focus on raising livestock (cattle, poultry, sheep, etc.) for meat or other products (milk, eggs, wool, etc.) which is a type of goods production. Animals or products they produce will eventually be sold at which point ownership is transferred. Conclusion: Other than service
1131 Timber Tract Operations (includes 113110)	This industry focuses on growing trees for the purpose of timber over a long-time horizon (10 years or more) which is a type of goods production. Once the trees have reached maturity, they are cut down and sold at which point ownership is transferred.

NAICS	Reasoning
1132 Forest Nurseries and Gathering of Forest Products (includes 113210)	Conclusion: Other than service This industry focuses on two outcomes. The first is growing trees for reforestation. As these trees are not intended to transfer ownership this part of the industry is a service. The second is gathering products which grow naturally in the forest, such as ginseng or truffles. As these products are intended to be sold and ownership transferred, this part of this industry is other than service. Of the 24 index entries in the NAICS manual for this industry 21 relate to gathering forest products which is therefore presumed to be the primary focus of the industry. Conclusion: Other than service
1141 Fishing (includes 114111, 114112, and 114119)	The industries in this industry group focus on catching wild fish or marine animals from their natural habitat. Upon capture ownership is established. The fish or other marine animals are later then sold at which point ownership is transferred. Conclusion: Other than service
2131 Support Activities for Mining	The industries in this industry group focus on preparing and building structures in support of mining operations but do no mining themselves.

NAICS	Reasoning
(includes 213111, 213112, 213113, 213114, and 213115)	Activities include, building and demolishing well foundations, drilling holes, digging tunnels, and removing waste material. This often involves a physical change to the land. Conclusion: Other than Service.
2213 Water, Sewage and Other Systems (includes 221310, 221320, and 221330)	The industries in this industry group focus on delivering water, steam, hot and cold air to customers and receiving used water in the form of sewage. During these activities ownership does change hands. Conclusion: Other than Service.
236 Construction of Buildings (includes 236115, 236116, 236117, 236118, 236210, and 236220)	The industries in this subsector focus on building or modifying physical structures. The work is similar to onsite manufacturing. Materials are used in the construction and upon completion a physical structure is transferred to new owners. Conclusion: Other than Service.
237 Heavy and Civil Engineering Construction (includes 237110, 237120, 237130, 237210, 237310, and 237990)	The industries in this subsector focus on building utility systems to include pipelines, powerlines, and sewer lines. Like manufacturing, raw materials are used to build a product. Ownership is transferred. Conclusion: Other than Service.

NAICS	Reasoning
238 Specialty Trade Contractors (includes 238110, 238120, 238130, 238140, 238150, 238160, 238170, 238190, 238210, 238220, 238290, 238310, 238310, 238320, 238330, 238340, 238350, 238390, 238910, and 238990)	The industries in this subsector focus on building specialized parts of larger construction projects (plumbing, electrical wiring, roofing, etc.). Like manufacturing, raw materials are used to build a product. Ownership is transferred. Conclusion: Other than Service
4412 Other Motor Vehicle Dealers (includes 441110, 441120, 441210, 441222, and 441227)	The industries in this industry group focus on selling new or used motor vehicles besides cars and trucks (recreational vehicles, boats, all-terrain vehicles, etc.) to final customers. During these transactions ownership is changed. Conclusion: Other than Service
4413 Automotive Parts, Accessories, and Tire Retailers (includes 441330 and 441340)	The industries in this industry group focus on selling motor vehicles parts (tires, batteries, stereos, etc.) to final customers. During these transactions ownership is changed. Conclusion: Other than Service
444 Building Material and Garden Equipment and Supplies Dealers (includes 444110, 444120, 444140, 444180, 444230, and 444240)	The industries in this subsector focus on selling new building materials (paint, lumber, tools, etc.) or lawn and garden equipment and supplies (seeds, plants, lawnmowers, etc.) to final customers. During these transactions ownership is changed.

NAICS	Reasoning
445 Food and Beverage Retailers (includes 445110, 445131, 445132, 445230, 445240, 445250, 445291, 445292, 445298, and 445320)	Conclusion: Other than Service The industries in this subsector focus on food that will not necessarily be consumed immediately (produce, canned, frozen, etc.) to final customers. Establishments may sell specific foods (baked goods, meat, seafood, etc.) or many types (i.e. supermarket). During these transactions ownership is changed. Conclusion: Other than Service
449 Furniture, Home Furnishings, Electronics, and Appliance Retailer (includes 449110, 449121, 449122, 449129, and 449210)	The industries in this subsector focus on selling new furniture, home furnishings (flooring or window treatments), electronics, or appliances to final customers. During these transactions ownership is changed. Conclusion: Other than Service
455 General Merchandise Retailers (includes 455110, 455211, and 455219)	The industries in this subsector focus on selling a wide variety of new products to final customers. During these transactions ownership is changed. Conclusion: Other than Service
456 Health and Personal Care Retailers (includes 456110, 456120m 456130, 456191, and 456199)	The industries in this subsector focus on selling health goods (pharmacies, eyeglasses, supplements, etc.) or personal care goods (cosmetics, perfume, haircare products, etc.) to

NAICS	Reasoning
4571 Gasoline Stations (includes 457110 and 457120)	final customers. During these transactions ownership is changed. Conclusion: Other than Service The industries in this industry group focus on selling gasoline to final customers. Some gasoline stations may be collocated with convenience stores and are included in this industry group. During these transactions ownership is changed. Conclusion: Other than Service
458 Clothing, Clothing Accessories, Shoe, and Jewelry Retailers (includes 458110, 458210, 458310, and 458320)	The industries in this subsector focus on selling new clothing, clothing accessories (handbags, hats, ties, etc.), shoes, jewelry, luggage or leather goods (i.e. briefcases) to final customers. During these transactions ownership is changed. Conclusion: Other than Service
459 Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers (includes 459110, 459120, 459130, 459140, 459210, 459310, 459410, 459420, 459510, 459910, 459920, 459930, 459991, and 459999)	The industries in this subsector focus on selling new sporting goods, toys, games, craft supplies, musical instruments and supplies, books, periodicals, flowers, office supplies, gifts, souvenirs, pets and pet supplies, art mobile homes, tobacco, and other miscellaneous products to final customers. This subsector also

NAICS	Reasoning
	includes used good sales except motor vehicles. During these transactions ownership is changed. Conclusion: Other than Service
5121 Motion Picture and Video Industries (includes 512110, 512120, 512131, 512132, 512191, and 512199)	The industries in this industry group focus on producing, distributing, and exhibiting motion pictures. It includes some industries which are service based and others which are not. Motion Picture production is not a service as it involves the creation of a product. Distributing and exhibiting motion pictures is a service as these activities focus on moving the motion picture towards consumers without transferring ownership. Based on the 2022 Statistics of U.S. Businesses more than 80 percent of revenue in the industry group comes from motion picture production. Conclusion: Other than Service
5132 Software Publishers (includes 513210)	This industry focuses on the production of software. During this process a new product is created which can potentially be transferred in ownership. Conclusion: Other than Service
5311 Lessors of Real Estate	The industries in this industry group provide long-term leases to real estate for residential or

NAICS	Reasoning
(includes 531110, 531120, 531130, and 531190)	commercial purposes. While ownership is not transferred in these transactions, it does come with a significant loss of control and legal protection for the renter. Conclusion: Other than Service
5322 Consumer Goods Rental (includes 532210, 532281, 532282, 5332283, 532284, and 532289)	The industries in the Group rent objects like refrigerators and televisions. These include rent to own which is substantially similar to a retail outlet. Control, and eventually ownership, is transferred. Conclusion: Other than Service.
722 Food Services and Drinking Places (includes 722310, 722320, 722330, 722410, 722511, 522513, 722514, and 722515)	The industries in this subsector provide food and drink to customers. Customers may eat at the location where the food is prepared, take it away to eat, or have it brought to them. Once the food or beverage has been provided to the customers it changes ownership. Conclusion: Other than Service

Notes – Only industry groups for which SBA is proposing to change the size standard measure are included in the table. An industry group excluded will maintain their size standard measures. Where appropriate industry groups have been collected at the 3-digit subsector when the same reasoning is applicable to all industry groups in the hierarchy.

standards 208 are proposed to have an employment based size standard, 129 are proposed to have a receipts based size standard, and one (NAICS 5221 Depository Institutions) has an asset

based size standard as seen in Table 2. Many would transition to an employment based size standard either from a receipts based one (64 industries), or a mix of receipts and

employment based (6 industries).¹⁹ The proposed size standard determination for all industries can be found in Table A in the Appendix.

Table 4: Summary of Size Standards Determinations

2023 Size Standards	2023 Totals	2026 Size Standards		
		Employment	Receipts	Assets
Employment	138	138		
Receipts	191	64	127	
Assets	1			1
Receipts/Employment	7	6	1	
Receipts/Assets	1		1	
2026 Totals	338	208	129	1

5. Data Sources

Calculating small business size standards as laid out in this proposed methodology requires data from many sources. For 311 out of 338 industry groups and industries, 8 data sources were used, while for the remaining 27 a special data source is needed due to specific data needs that are not covered in the main data sources. Some of these coverage gaps are due to private firms outside of the general sources, such as farms and railroads, while for others the gaps are due to a significant government presence in industry groups such as utilities, urban transportation, and education. Because of these gaps an additional 14 data sources are used. All the data sources used are produced by Federal agencies, publicly accessible, cited, and discussed below. All are presumed to be from 2022 unless mentioned otherwise. Because of changes in size standards factors, few data sources are repeated from the 2024 Methodology.

5.1 General Industry Data

Statistics of U.S. Businesses²⁰—employee counts and receipts by state and industry group or industry from this data source are used to calculate national industry size.

Nonemployer Statistics²¹—establishment counts and receipts by state and industry group or industry from this data source are used to calculate national industry size. Additionally, total establishment counts by county and industry group or industry from this data source in 2023 are used in the calculation of the number of geographic markets for an industry group or industry.

County Business Patterns²²—total employee counts by county and industry group or industry from this data source in 2023 are used in the calculation of the number of geographic markets for an industry group or industry.

County Gazetteer Files²³—county latitudes and longitudes from this data source are used in estimating the approximate location of suppressed employment and nonemployer

establishments at the county-industry level using a Heckman selection model. This process is part of the calculation of the number of geographic markets for an industry group or industry.

County Population Totals²⁴—2023 county population from this data source is used the calculation of the number of geographic markets for an industry in two ways. First, in estimating the approximate location of suppressed employment and nonemployer establishments at the county-industry level using a Heckman selection model. And second, in calculating the geographic disparity of an industry group or industry.

American Community Survey Commuting Flows²⁵—county to county commuting flows from this data source is used to agglomerate counties into larger areas for the purposes of calculating the number of geographic markets for an industry group or industry. This data is based on the 2016–2020 American Community Survey and is the most recently available.

¹⁹ Industries with a mix of size standards are due to the current size standards being defined at the 6-digit NAICS level while certain proposed size standards are defined at the 4-digit NAICS level. In those cases some 6-digit industries had a receipts

based size standard while others had employment based size standards.

²⁰ Statistics of U.S. Businesses—Census Bureau.

²¹ Nonemployer Statistics—Census Bureau.

²² County Business Patterns—Census Bureau.

²³ Gazetteer Files—Census Bureau.

²⁴ County Population Totals—Census Bureau.

²⁵ American Community Survey Commuting Flows—Census Bureau.

County Adjacency File²⁶—adjacency information from this data source is used to ensure that only contiguous geographic areas are adjoined when counties are agglomerated into larger areas in the process of calculating the number of geographic markets for an industry group or industry. This data is from 2023.

Use of Commodities by Industry Table²⁷—exports, imports, and output by industry group or industry from this data source are used to adjust national industry size for exports and imports. This data is from 2017 and is the most recent available for the most detailed version.

5.2 Industry Specific Data

Census of Agriculture²⁸—employee counts from this data source are used in place of those from the Statistics of U.S. Businesses (SUSB) and Nonemployer Statistics (NES) for 17 farming industry groups and industries. Additionally, 11 farming industry groups or industries are combined in the Census of Agriculture. Their employment is split in proportion to the amount of receipts generated in each industry group or industry as a proportion of all receipts.

Annual Electric Power Industry Report Form EIA-861²⁹—total revenue and private industry revenue from this data source is used in combination with data from Form EIA-923 discussed below to adjust SUSB private sector employment for publicly owned electricity distribution in the Electric Power Generation, Transmission and Distribution industry (NAICS 2211). Around 12.1% of electricity is distributed by publicly owned sources. The two values for distribution and generation are averaged to upwardly adjust revenue and employment accordingly.

Annual Electric Power Industry Report Form EIA-923³⁰—total net generation and private industry net generation from this data source is used in combination with data from Form EIA-861 discussed above to adjust SUSB private sector employment for publicly owned electricity generation in the Electric Power Generation, Transmission and Distribution industry (NAICS 2211). Around 8.0% of electricity is generated from publicly owned sources. The two values for

distribution and generation are averaged to upwardly adjust revenue and employment accordingly.

Natural Gas Summary³¹—average prices and consumption of natural gas from this data source are used to calculate the total revenue of Natural Gas Distribution (NAICS 2212) including both private and government owned entities. Natural gas delivered for electric power generation is excluded as it is primarily delivered via pipeline which is a different industry (NAICS 4861). The number of employees in the industry group from SUSB is then increased proportionally to the ratio of revenue from this source and SUSB.

Data and Information Used by WaterSense³²—average prices for water in 2024 from this data source is used in calculating the total revenue of all water and sewage systems (NAICS 2213). It is combined with data from the United States Geological Survey discussed below to estimate the total revenue of water and sewage systems. Total employment of all water and sewage systems is estimated by multiplying the employment at privately owned water and sewage systems by the ratio of total revenue to private revenue reported in SUSB.

Estimated Use of Water in the United States 2015³³—average daily water use by public water systems in 2015 from this data source is used in calculating the total revenue of all water and sewage systems (NAICS 2213). It is combined with data from the Environmental Protection Agency discussed above to estimate the total revenue of water and sewage systems. Total employment of all water and sewage systems is estimated by multiplying the employment of privately owned water and sewage systems by the ratio of total revenue to private revenue reported in SUSB.

Railroad Employment and Compensation³⁴—employee counts for Class I line-haul railroads, Non-Class I line-haul railroads and switching & terminal companies, and the National Railroad Passenger Corporation (Amtrak) are used to calculate the total employment for Rail Transportation (NAICS 4821). Other Commuter railroads, Car-loan companies, Labor organizations, and Miscellaneous

employees are excluded as they fall outside the industry group.

Single Summary of Transit Report³⁵—receipts for publicly owned Urban Transit Systems entities (NAICS 4851) from this data set are added to the privately owned numbers from SUSB to arrive at the total receipts for the entire industry group.

Quarterly Banking Profile³⁶—data on assets and receipts of federally insured banks and other savings institutions from this data set are combined with similar information about credit unions from the National Credit Union Administration's Quarterly Data Summary Reports discussed below to create the asset-based size standard for Depository Credit Intermediation (NAICS 5221).

Quarterly Data Summary Report³⁷—data on assets and receipts of federally insured credit unions from this data set are combined with similar information about banks and other savings institutions from the Federal Deposit Insurance Corporation's Quarterly Banking Profile discussed above to create the asset-based size standard for Depository Credit Intermediation (NAICS 5221).

Private Pension Plan Bulletin³⁸—data on administrative expenses to pension plans from this data source is added to the contributions to group health plans discussed below to find the revenue for Insurance and Employee Benefit Funds (NAICS 5251).

Group Health Plans Report³⁹—data on administrative expenses to group health plans from this data source is added to the contributions to pension plans discussed above to find the revenue for Insurance and Employee Benefit Funds (NAICS 5251).

Common Core of Data America's Public Schools⁴⁰—data on receipts for public Elementary and Secondary Schools (NAICS 6111) from this data source are used. The public school receipts are then added to the private school receipts from SUSB.

Integrated Postsecondary Education Summary Tables⁴¹—data on receipts for publicly owned Junior Colleges (NAICS 6112) and Colleges, Universities, and

³⁵ 2022 Single Summary of Transit Report—Federal Transit Administration.

³⁶ Quarterly Banking Profile—Federal Deposit Insurance Corporation.

³⁷ Quarterly Data Summary Report—National Credit Union Administration.

³⁸ Private Pension Plan Bulletin—Employee Benefits Security Administration.

³⁹ Group Health Plans Report—Employee Benefits Security Administration.

⁴⁰ Common Core of Data America's Public Schools—National Center for Education Statistics.

⁴¹ Integrated Postsecondary Education Summary Tables—National Center for Education Statistics.

²⁶ County Adjacency File—Census Bureau.

²⁷ Use of Commodities by Industry Table—Bureau of Economic Analysis.

²⁸ USDA—National Agricultural Statistics Service—Census of Agriculture.

²⁹ Annual Electric Power Industry Report Form EIA-861—Energy Information Administration.

³⁰ Annual Electric Power Industry Report Form EIA-923—Energy Information Administration.

³¹ U.S. Natural Gas Summary—Energy Information Agency.

³² Data and Information Used by WaterSense—Environmental Protection Agency.

³³ Estimated Use of Water in the United States in 2015—U.S. Geological Survey.

³⁴ Employment and Compensation—Railroad Retirement Board.

Professional Schools (NAICS 6113) from this data source are used. Junior Colleges are denoted by being institutions with a typical degree plan of less than 4 years, while Colleges, Universities, and Professional Schools have a typical degree plan of 4 years or more. The public school receipts are

then added to the private school receipts from SUSB.

6. Calculation of SBA Size Standards

This section lays out the method by which SBA proposes to calculate size standards for each industry group or industry. First, it explains how the three

inputs of average market size are calculated using the data sources cited above. These are: national industry size, number of geographic markets, and an adjustment factor for net imports. These three inputs are combined according to the following equation:

$$AverageMarketSize_i = \frac{NationalIndustrySize_i}{\#GeographicMarkets_i} \times NetImportsAdjustment_i \quad (1)$$

Summary statistics on average market size and its components are presented in Table 3 below. Values for all 338 industry groups or industries are provided in Table A in the Appendix. For both industry groups and industries with employment based and receipt based size standards, the average market size is sharply skewed to the right as

indicated by the mean average market size exceeding the median. This is driven by a skew in national industry size and is somewhat mitigated by the effect of the number of geographic markets which is negatively correlated with national industry size. As the number of geographic markets decreases, the national industry size

increases and vice versa. The net import adjustment plays only a small role in industry groups or industries with receipt based size standards, but more strongly influences those with employment based size standards.

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Table 5: Summary Statistics of Size Standard Factors

Variable	Standard				
	Mean	Median	Deviation	Minimum	Maximum
Receipt based					
National Industry Size (\$ millions)	\$182,197	\$61,498	\$367,637	\$685	\$3,193,949
Number of Geographic Markets	344	44	729	1	3,109
Net Import Adjustment	1.001	1.000	0.155	0.538	2.165
Average Market Size (\$ millions)	\$7,612	\$1,352	\$16,617	\$13	\$102,568
Employment based					
National Industry Size (employees)	306,944	114,618	829,805	829	10,901,307
Number of Geographic Markets	285	6	712	1	3,109
Net Import Adjustment	1.399	1.000	1.567	0.638	9.653
Average Market Size (employees)	52,427	12,038	112,942	23	762,423

Notes: 128 industries have a receipt based size standard and 208 industries have an employment based size standard. Values for all industry are reported in Table A in the Appendix. See the body of the paper for details on how each variable is calculated. The one group of industries with an asset based size standard is combined with the receipts based ones for this table.

at least one deviation due to a variety of reasons, including, nonstandard data sources, government competition, mobile workplaces, or an asset based size standard. Any deviations will be noted as they become relevant. After the calculation of average market size has been explained in detail, the formula for calculating size standards from the measure will be explained.

SBA believes a geographic component is appropriate to add to the calculation of size standards because it is relative in determining whether a firm is dominant in its field of operation. For example, Software Publishers (NAICS 5132) compete in a national market with major brands such as Microsoft or Adobe and thus have the highest size standard, while Florists (NAICS 4593) compete in small local markets and as such have a much lower size standard. Average market size is chosen as the single most appropriate measure for determining small business size standards because SBA can then compare a firm's size to

its industry group or industry's average market size to get the firm's approximate market share. Using average market size thus serves as the best approximation of the market average, capturing a wide array of competing firms in a given domain. Higher market shares are indicative of firms which are potentially dominant in their field.⁴² Distinguishing which firms possess greater market shares helps parcel out small and nondominant firms by comparison. Because industry groups and industries range widely in their characteristics, two firms of equal size may be classified differently if they are in different industries. For example, the scale required for a firm to dominate in Child Care Services (NAICS 6244) is significantly less than Colleges, Universities and Professional Schools (NAICS 6113), and average market size reflects this difference with the former having an average market size of \$27 million while the latter has an average market size of \$17.6 billion.

6.1 National Industry Size

To calculate national industry size for most industry groups or industries requires data from two sources, both produced by the Census Bureau: SUSB to incorporate the contributions of businesses with employees and NES to incorporate the contributions of businesses without employees. Because of how geographic markets are calculated below, only the contributions of firms in the contiguous United States are included. Despite their exclusion to the calculations, the proposed size standards will still be applicable to firms in Alaska and Hawaii, as well as U.S. territories not covered by the data sources used.

For industry groups or industries with receipts based size standards, national industry size can be straightforwardly calculated as the sum of receipts for an industry in both SUSB and NES as follows:⁴³

$$NationalIndustrySize_i^{receipt} = receipts_i^{nonemployer} + receipts_i^{employer} \quad (2)$$

However, for those with an employment-based size standard there is a challenge in combining the two sources since the owners of non-employer firms are contributing the market despite not being employees, though the intensity of that contribution is generally low. The SBA considered treating each nonemployer business as

equivalent to an employee but rejected this because it would place too much emphasis on nonemployers' contribution. Of the 29.8 million nonemployer firms in the 2022 NES, 11.3 million (37.9 percent) took in less than \$10,000 in revenue, while the average revenue to employee in 2022 SUSB was \$374,583. As such the

importance of nonemployers in an industry group or industry should be lower than that of an employee. To adjust for this disparity, each industry group or industry gives different weights to account for the importance of nonemployers based on a comparison of the revenue generated per employee and per nonemployer as follows:

$$\rho_i = \frac{receipts_i^{nonemployer} / firms_i^{nonemployer}}{receipts_i^{employer} / employees_i} \quad (3)$$

Nonemployer receipts per firm vary between 1.2 percent and 83.6 percent of receipts per employee with an average value of 26.5 percent. While the individual contributions of

nonemployer firms are low, their combined contributions can be significant and so the SBA choose to include them. Industry groups such as Taxi and Limousine Service (NAICS

4853) and Fishing (NAICS 1141) see more than half of all receipts generated by nonemployers. With this adjustment factor defined the national market size can then be calculated as follows:

$$NationalIndustrySize_i^{employee} = \rho_i \times firms_i^{nonemployer} + employees_i \quad (4)$$

Not only is ρ_i used to adjust the national industry size for industry groups and industries with employment based size standards, it is also used to

adjust employee numbers at the county level for calculating the geographic market definition below.

The method described above is applicable for 312 out of 338 industry

groups and industries, but the remaining 26 require datasets beyond SUSB and NES. Out of those, 19 are due to the industry groups or industries

⁴² In their 2023 Horizontal Merger Guidelines, the Federal Trade Commission and Department of Justice, Antitrust Division look for changes in the Herfindahl-Hirschman Index, which is the square of all competing firm's market shares, when determining if potential firms are allowed to merge.

⁴³ For industry groups or industries with receipts based size standards, the national industry size is also adjusted for the average level of inflation and productivity growth between primary data collection in March of 2022 and the present based on the method described in the section

"Adjustment to Receipts Based Size Standards for Productivity Growth and Inflation". This adjustment raises all receipts based values in the reported data sources by 22.1%.

being excluded from those datasets, and as such, an alternative source is needed. These are:

- Farms (17 industry groups and industries in NAICS subsectors 111 and 112)—Statistics on farm employment is collected by the National Agricultural Statistics Service in the Census of Agriculture. This data source contains employment information on 6 out of the 17 industry groups with the remaining 11 industry groups or industries are combined with one or more others.⁴⁴ The employment of the two is separated by using the ratio of aquaculture revenue to total revenue in the combined reporting.

- Rail Transportation (NAICS 4821)—Statistics on employment in the railroads and related industries is reported by the Railroad Retirement Board in their Employment and Compensation Statistical Tables. To calculate only the railroad industry group's employment, the employment of Class I line-haul railroads, non-Class I line-haul railroads, and the National Railroad Passenger Corporation (Amtrak) are combined.

- Insurance and Employee Benefit Plans (NAICS 5251)—the SBA is unaware of any data on employment or receipts in this industry group. Instead, expenses for private pension plans and group health plans from the Employee Benefits Security Administration are used instead of receipts in calculating size standards.

The remaining 7 industry groups do have data reported in SUSB and NES. However, these sources lack information on government owned entities which also compete on a regular basis in the industry groups.⁴⁵ These are:

- Electric Power Generation, Transmission and Distribution (NAICS 2211)—Government owned entities participate in the electricity market both

in generating and distributing electricity.⁴⁶ To capture this production the employment reported in SUSB is adjusted upward to account for the fact that approximately 8.0% of electricity is generated by public sources and 12.1% is distributed by public sources as reported by the Energy Information Agency.

- Natural Gas Distribution (NAICS 2212)—Like electricity, government owned entities participate in the distribution of natural gas to end users. To capture this production the employment reported in SUSB is adjusted upward using data from the Energy Information Agency.

- Water, Sewage and Other Systems (NAICS 2213)—90% of all water systems in the United States are operated by local governments.⁴⁷ To capture this production the employment reported in SUSB is adjusted upward using data from the Environmental Protection Agency, and the U.S. Geological Survey.

- Urban Transit Systems (NAICS 4851)—2,174 out of 2,922 urban transport systems in the United States are operated by governments, with virtually all operating funds being provided by state and local governments.⁴⁸ To capture this production, the employment reported in SUSB is adjusted upward using data from the Federal Transportation Administration.

- Elementary and Secondary Schools (NAICS 6111)—About 91% primary and secondary schools in the United States are operated by local governments.⁴⁹ To capture this production the employment reported in SUSB is adjusted upward using data from the National Center for Education Statistics.

- Junior Colleges (NAICS 6112) and Colleges, Universities and Professional Schools (NAICS 6113)—Around 54% of both junior colleges and 4-year universities are operated by state

governments.⁵⁰ To capture this production the employment reported in SUSB is adjusted upward using data from the National Center for Education Statistics. Junior Colleges are identified as those specializing in degrees with an expected completion time of 2-years or less.

6.2 Number of Geographic Markets

Calculating the number of geographic markets for a particular industry or industry group is distinct from calculating the national industry size. For purposes of SBA's proposed methodology, the SBA believes that the best reading of the Small Business Act's definition of a small business concern would be to read "field of operation" as equivalent to how the Federal Trade Commission and Department of Justice recently read "any line of commerce in any section of the country" from the Clayton Antitrust Act⁵¹ in their horizontal merger guidelines.⁵² Their definition has two key components: a product component, which the national industry size incorporates, and a geographic component which will vary in scope for different products. On an intuitive level, geographic market should capture the distance over which customers travel to buy the goods or services of an industry group or industry, or the distance those goods or services travel to reach customers. For example, customers are likely to only travel short distances to get their haircut, go to the grocery store, or get their car repaired. However, at the same time customers are likely to purchase food grown in California's central valley, fill their gas tank with gasoline refined on the Gulf Coast, and purchase a new car manufactured in Michigan even when they live nowhere near those places. To approximate the behavior of customers in various industries, SBA uses a modification of methodology the U.S. Department of Agriculture, Economic Research Service (USDA) uses to create commuting zones which cover the entire country.⁵³ Commuting zones have been widely used in the economic literature because of their complete coverage of the United States, unlike other local area market

⁴⁴ The industry groups which are combined are: (1) Food Crops Grown Under Cover (NAICS 11141) and Nursery and Floriculture Production (NAICS 11142), (2) Chicken Egg Production (NAICS 11231), Broilers and Other Meat Type Chicken Production (NAICS 11232), Turkey Production (NAICS 11233), Poultry Hatcheries (NAICS 11234), and Other Poultry Production (NAICS 11239), (3) Sheep Farming (NAICS 11241) and Goat Farming (NAICS 11242), and (4) Aquaculture (NAICS 1125) and Other Animal Production (NAICS 1129).

⁴⁵ Not all government owned entities are excluded from SUSB. Government owned entities in the following NAICS Codes are included: Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers (NAICS 4248), Beer, Wine, and Liquor Stores (NAICS 44532), Tobacco Stores (NAICS 459991), Book Publishers (513130), Monetary Authorities—Central Bank (NAICS 5211), Savings Institutions (NAICS 522180), Credit Unions (NAICS 522130), Hospitals (NAICS 622), Gambling Industries (NAICS 7132), and Casino Hotels (NAICS 721120). Statistics of U.S. Businesses Methodology—Census Bureau.

⁴⁶ See for example US Department of Energy, "Power Market Administrations," n.d. <https://www.energy.gov/ea/power-marketing-administrations>.

⁴⁷ Environmental Protection Agency, "Information about Public Water Systems," last updated on March 16, 2026, <https://www.epa.gov/dwreginfo/information-about-public-water-systems>.

⁴⁸ 2022 Single Summary of Transit—Department of Transportation.

⁴⁹ See National Center for Education Statistics, "Table 3. Number of operating public elementary and secondary schools, by school type, charter, and state or jurisdiction: School year 2023–24," Common Core of Data: America's Public Schools, n.d., https://nces.ed.gov/ipeds/data/ipeds2023/summary_3.asp. This figure is derived by taking the percentage of regular schools from the number of operating schools. All regular schools are operated by local school districts.

⁵⁰ According to current education statistics as of June 2026, there are 2,177 public universities out of 4,000 universities in the U.S.

⁵¹ 15 U.S. Code 18.

⁵² 2023 Horizontal Merger Guideline—Department of Justice.

⁵³ Commuting Zones and Labor Market Areas—USDA, Economic Research Service The full methodology for calculating 2020 commuting zones is specified in Fowler (2024), prior 2010 commuting zones in Fowler et. al (2016), and 1990 commuting zones in Tolbert and Sizer (1996).

definitions such as metropolitan statistical areas.⁵⁴

The algorithm the USDA uses to derive commuting zones works by finding the two counties with the strongest connection between them in terms of the number of workers who live in one of the counties but work in the other relative to the counties' number of

workers, which is referred to as a proportional flow.⁵⁵ The data on commuting patterns comes from the American Community Survey Commuting Flows data produced by the Census Bureau. Once the two counties with the highest proportional flow have been identified they are combined into

one commuting zone and the process repeats until the commuting connections between all current commuting zones falls below a predefined level of 0.023. Formally the proportional flow of commuters between commuting zone i and j is defined as follows:

$$flow_{i,j} = \frac{Commuters_{i,j} + Commuters_{j,i}}{\min(Workers_i, Workers_j)} \quad (5)$$

The modified version of the algorithm SBA uses is the same except that instead of stopping once a predefined level has been reached, each industry group or industry has the potential to stop at a different level, using a stopping rule based on its geographic disparity of employment. Disparity in employment is used for all industry groups and industries, regardless of what size standard measure is ultimately used. The SBA considered using the disparity in receipts for those industry groups and industries with a receipts based size standard, but concluded this would be inappropriate for two reasons. First, while data on receipts at the county level is available in SUSB, it is only

available at the 3-digit subsector level. Second, receipts disparity would encounter problems related to differences in costs of living between different areas of the country, because it would make it look like less activity was taking place in low cost of living areas. Like commuting zones, this concept has also been used in the economics literature.⁵⁶ This measure works by comparing the fraction of all industry group or industry employees and fraction of total population in an area. If the sum of all discrepancies between the two values is below a predefined level of 0.15, the agglomeration of counties for the industry is stopped.⁵⁷

The SBA considered choosing a lower stopping value of 0.12 but rejected it as it suggested too few industry groups or industries for county level markets, excluding the likes of Offices of Dentists (NAICS 6212) and Child Care Services (NAICS 6244). The SBA also considered choosing a higher stopping value of 0.18 but rejected it as it suggested to few industry groups or industries for national level markets, excluding the likes of Aerospace Product and Parts Manufacturing (NAICS 3364) and Software Publishing (NAICS 5132). Formally, an industry group or industry's geographic disparity of employment is defined as:

$$GeoDisp_i = \frac{1}{2} \sum_{j=1}^{cluster_i} \left| \frac{empl_{i,j} + \rho_i \times firms_{i,j}^{nonemployer}}{empl_{i,total} + \rho_i \times firms_{i,total}^{nonemployer}} - \frac{pop_j}{pop_{total}} \right| \quad (6)$$

Data on employment and number of nonemployer firms at the county level is gathered from the CBP and NES, respectively, both of which are produced by the Census Bureau. For 11 industry groups, the geographic disparity is below the stopping value at the first check and thus have 3,109 geographic markets, one for each county in the contiguous United States. This group includes industries such as Offices of Dentists (NAICS 6212), Child Care Services (NAICS 6244), and Restaurants and Other Eating Places (NAICS 7225). On the other side, 46 industry groups and industries only have their geographic disparity fall below the stopping value when all counties have been combined together,

and thus, these have just a single geographic market. This group includes industry groups such as Metal Ore Mining (NAICS 2122), Aerospace Product and Parts Manufacturing (NAICS 3364), and Software Publishing (NAICS 5132).

The above method is effective for calculating the size of geographic markets for most industry groups and industries, given it builds on USDA's peer-reviewed algorithm.⁵⁸ However, there are some general challenges that must be overcome. First are the detached states of Alaska and Hawaii. The USDA's algorithm includes a check to see if two counties border one another before they can be combined. This check precludes any industry

group or industries from having just a single national market. This is unlikely for products that are shipped over great distances or services that can be provided remotely. Cargo can be shipped on ocean vessels, and services can be done over the phone or the internet for which a land boarder is not relevant. The SBA considered excluding the bordering check, which would allow for a national market size, but chose to reject one because Alaska and Hawaii were the last areas to be adjoined due to their remote locations. With just 0.7 percent of U.S. Gross Domestic Product produced by these two states, this still led to relatively few industry groups or industries with national markets.⁵⁹ As such, SBA has chosen to exclude data

⁵⁴ Examples include Autor and Dorn (2013), Autor et. al (2013), Acemoglu and Restrepo (2020), and Jha et. al (2024).

⁵⁵ The commuting zones algorithm also includes a check for if two counties are adjacent to one another. For purposes of the size standards methodology this check is of minimal importance as data from Alaska and Hawaii excluded due to the

generally weak commuting patterns between these areas and the contiguous United States.

⁵⁶ Examples included Ellison and Glaeser (1997), Desmet and Fafchamps (2006), Gervais and Jensen (2019) and Mayo et al. (2025).

⁵⁷ The geographic dispersion ranges from zero to one, with zero representing a perfect match between employment and population, and one representing

a complete separation of employment and population. The chosen stopping rule value of 0.15 thus represents a roughly equal distribution of employment and population across the country.

⁵⁸ To reiterate, the USDA's commuting zones have been widely relied upon in the academic literature, specifically across labor economic studies.

⁵⁹ GDP by State—Bureau of Economic Analysis.

on firms from Alaska and Hawaii when calculating all numbers related to size standards.

The second general challenge is that the Census Bureau suppresses data when it might reveal confidential business information. Whenever an observation in the CBP or NES would have fewer than three establishments, the data is suppressed, and no observation is reported.⁶⁰ This is a minor problem for industry groups such

as Restaurants and other Eating Places (NAICS 7225) with many establishments spread throughout the country. A few counties with employment in the industry go unreported; but the error is minor. However, the problem is much greater for industry groups with very few establishments such as Forest Nurseries and Gathering of Forest Products (NAICS 1132), which possesses just 160 establishments in the entire country. For this industry, only

three establishments are reported in the county data.

To address this issue, the suppressed data are placed into counties without data using a two-step Heckman process⁶¹ for employees and a probit regression for the nonemployer firms. In the first step, the counties with the highest probability of containing an establishment but do not are found using probit regression. This is done with the following regression:

$$\begin{aligned} \Pr(\text{establishment}_{i,j} \geq 3) \\ = \beta_{1i} \cdot \text{pop}_j + \beta_{2i} \cdot \text{lat}_j + \beta_{3i} \cdot \text{lon}_j + \beta_{4i} \cdot \text{lat}_j^2 \\ + \beta_{5i} \cdot \text{lon}_j^2 + \beta_{6i} \cdot \text{lat}_j \cdot \text{lon}_j + \alpha_i + \epsilon_{i,j} \end{aligned} \quad (7)$$

where pop_j is the populations, lat_j is the latitude, and lon_j is the longitude of county j . The inclusion of latitude, longitude, their squares, and their interaction is included so that geographic concentration of an industry can be included.⁶² Note that each coefficient is industry group or industry

specific so each industry can have a different geographic concentration profile. For nonemployer firms the process stops here and the most likely counties are given 1.5 nonemployer firms each till all missing firms have been accounted for. For the employer firms, the second step then estimates the

natural logarithm of employment in each county using ordinary least squares with the only independent variables being the population, an industry (or industry group) fixed effect and the inverse mills ratio ($\lambda_{i,j}$) from equation 7 to predict employment in the most likely counties to be included:

$$\log(\text{employment}_{i,j}) = \gamma_i \cdot \text{pop}_j + \delta_i + \theta \cdot \lambda_{i,j} + \eta_{i,j} \quad (8)$$

While the above method can be used to find the number of geographic markets for most industries, 29 have issues which must be addressed. Twenty-five of these arise due to the need to bring in industry specific data which does not have county level granularity. For these an approximate geographic scope is chosen based on known industry group or industry characteristics. These are:

- Farms (NAICS 111 & 112)—the 17 farming industry groups and industries do not have useful geographic data on employment in the Census of Agriculture for this purpose. For these a single geographic market is assumed, since farming requires a lot of land and therefore tends to be located far from major population centers. SBA replaced employment with the acreage of six crops (wheat, corn, hay, soybeans, vegetables, and fruit orchards), and the number of three types of livestock (cattle, hogs, and broiler chickens) in the clustering algorithm and found that each suggested a single geographic market.

- Natural Gas Distribution (NAICS 2212)—using the CBP which only counts the private sector firms, this industry group has 12 geographic markets, which seems low given that the local nature of this industry group. Instead, the number of geographic markets is adjusted upwards to 554 to match the number of commuting zones, since most natural gas is distributed over relatively short distances.

- Water, Sewage and Other Systems (NAICS 2213)—using the CBP which only counts the private sector firms, this industry group has 21 geographic markets, which is rather low given the localized nature of this industry group. Instead, the number of geographic markets is adjusted upwards to 554 to match the number of commuting zones, since water systems are generally run by local governments.

- Railroad Transportation (NAICS 4821)—the railroad industry does not have useful geographic data from the Railroad Retirement Board. Much of the railroad industry group is scattered throughout the continental United

States given the nature of long-distance transport. For this industry group, a single geographic market is assumed, since railroads transport goods and people over long distances. Similar industry groups Deep Sea, Coastal, and Great Lakes Water Transportation (NAICS 4831) and Inland Water Transportation (NAICS 4832) have a single geographic market, while Nonscheduled Air Transportation (NAICS 4812) has three.

- Urban Transit Systems (NAICS 4851)—the urban transportation industry group does not have useful geographic data from the Federal Transit Administration. For this industry group, the number of geographic markets is set at 554 which matches the number of commuting zones in the continental United States, since that level of aggregation is similar in size to the metropolitan area that many firms service.

- Insurance and Employee Benefit Funds (NAICS 5251)—this industry group does not have useful geographic data from the Employee Benefits

⁶⁰ County Business Patterns Methodology—Census Bureau, Nonemployer Statistics Methodology—Census Bureau.

⁶¹ Heckman (1974).

⁶² For ten industry groups or industries a modified version of equation 7 is used that includes only population and the industry fixed effect. This

is due to these having very limited employment and establishment data at the county level (less than 10 counties in the continental U.S.). The 10 are Forest Nurseries and Gathering of Forest Products (NAICS 1132), Sugar Manufacturing (NAICS 31131), Tobacco Manufacturing (NAICS 3122), Narrow Fabric Mills and Schiffli Machine Embroidery

(NAICS 31322), Knit Fabric Mills (NAICS 31324), Leather and Hide Tanning and Finishing (NAICS 3161), Artificial and Synthetic Fibers and Filaments Manufacturing (NAICS 32522), Cement Manufacturing (NAICS 32731), Lime Manufacturing (NAICS 32741), and Securities and Commodity Exchanges (NAICS 5232).

Security Administration. For this industry group, the number of geographic markets is set at 554 which matches the number of commuting zones in the continental United States. This level of aggregation was chosen because competition in this industry group is based around the employment decisions of workers which will mirror their commuting decisions.

- **Elementary and Secondary Schools (NAICS 6111)**—this industry group does not have useful geographic data from the National Center of Education Statistics. For it the number of geographic markets is set at 3,109 which matches the number of counties in the continental United States.⁶³ This level of aggregation was chosen because public primary and secondary schools tend to be funded with local taxes.

- **Junior Colleges (NAICS 6112) and Colleges, Universities, and Professional Schools (NAICS 6113)**—these industry groups do not have useful geographic data from the National Center of Education Statistics. For them, the number of geographic markets is set at 49 which matches the number of states in the contiguous United States, including the District of Columbia. This level of aggregation was chosen because public postsecondary education is partially funded through the states.

For the remaining four industry groups which use the standard data sources, the geographic market

algorithm produces implausible narrow geographic scopes. SBA recognizes the flaw in the methodology as to these four industry groups and proposes an approach to those outlined below.

Although SBA cannot determine the exact cause for these outliers, it notes that all four share a common feature of having a mobile workforce, which could be partially at issue.⁶⁴

- **Taxi and Limousine Service (NAICS 4853)**—using the standard methodology for finding the number of geographic markets produces an implausibly small number for this industry group—ten—given that taxis and limousines are prevalent throughout most major cities in the United States. To address this potential flaw, this figure is replaced with 554, which matches the number of commuting zones in the contiguous United States. This number is chosen due to the mobile nature of this industry group.

- **School and Employee Bus Transportation (NAICS 4854)**—using the standard methodology for finding the number of geographic markets for this industry group produces an implausibly small one. Instead, this is replaced with 554 which matches the number of commuting zones in the continental United States. This number is chosen due to the mobile nature of this industry group.

- **Employment Services (NAICS 5613)**—using the standard methodology

for finding the number of geographic markets for this industry group produces an implausibly small four. Instead, this is replaced with 554 which matches the number of commuting zones in the continental United States. This number is chosen due to the mobile nature of this industry group.

- **Home Healthcare Services (NAICS 6216)**—using the standard methodology for finding the number of geographic markets for this industry group produces an implausibly small four. Instead, this is replaced with 554 which matches the number of commuting zones in the continental United States. This number is chosen due to the mobile nature of this industry group.

6.3 Net Import Adjustment

The last required piece for calculating an industry group or industry's average market size is to adjust the imports and exports of the goods and services produced by it. Without this adjustment, some industry groups or industries with heavy import competition will appear too small, while others with dominant American exporters will appear too large. To do this data from the Bureau of Economic Analysis's (BEA) Use of Commodities by Industry Table is used.⁶⁵ The net imports adjustment is calculated as follows:

$$NetImportAdjustment_i = 1 + \frac{Imports_i - Exports_i}{Output_i} \quad (9)$$

An example of an industry group that is larger than the sum of U.S. employment or receipts would suggest is Audio and Video Equipment Manufacturing (NAICS 3343). According to the BEA, the U.S. imported 8.7 times more in this industry group than it produced domestically. Given the strong foreign competition in this market, a domestic television manufacturer should be considered small at a higher level than a firm in another industry group or industry with a similar number of employees but no imports, because 90 percent of competition by revenue is located

outside the United States. Other examples include: Footwear Manufacturing (NAICS 3162), Computer and Peripheral Equipment Manufacturing (NAICS 3341), and Household Appliance Manufacturing (NAICS 3352). On the other hand, an industry group such as Semiconductor Machinery Manufacturing (NAICS 3332) sees 51.5 percent of domestic output sent abroad as exports. Other examples include: Oilseed and Grain Farming (NAICS 1111), Aerospace Product and Parts Manufacturing (NAICS 3364), and Software Publishing (NAICS 5132). Given the implications of high exports

for the size of the domestic market, a domestic semiconductor machinery manufacturer should be considered large at a lower level than another industry group or industry with a similar number of employees but no exports. The overall impact of the net import adjustment raises average market sizes more than it lowers them.

6.4 SBA Size Standards

With the average market size for an industry group or industry calculated, the size standard can now be calculated. Due to the broad range in average market sizes, SBA has not proposed a single fraction of average market size to

⁶³ The contiguous United States covers 48 states and the District of Columbia. It excludes disconnected states like Hawaii and Alaska. It also does not include US territories like Guam and Puerto Rico.

⁶⁴ The Census Bureau acknowledges this problem in the SUBS methodology for Employment Services (NAICS 5913), and thus, reports a significant

proportion of the industry employment only as "statewide" rather than specifying a county.

⁶⁵ The industry detail that the BEA uses is not the same as NAICS 4-digit industry. Some industries are combined in the BEA data while others are broken down further. For combined industries all are assumed to have the same net import adjustment. For those with a more detailed

breakdown, the lower levels of industry details are first summed before the Net Import Adjustment is calculated. Additionally, the BEA reports construction by type of structure rather than type of firm. As such given the inability to transport construction output, all industries in the construction sector are given a net import adjustment of one.

be used for all size standards. Instead, the fraction slowly decreases as the average market size increases. As the average market sizes for a particular industry group or industry become larger, it increases the likelihood that niches exist within that act almost as their own markets. And a firm may be able to dominate one of those niches without operating in the others. For example, while Doctor's Offices are a single industry group (NAICS 6211 Offices of Physicians), there are multiple specialties acting as separate markets within this industry. Cardiologists compete with other Cardiologists, while Obstetricians compete with other Obstetricians, but

there is no competition between the two specialties. Additionally, SBA has proposed to establish a minimum small business size which is used even when the average market size would suggest a smaller size standard would be justified. This is done so that all businesses below an absolute size level can still have access to SBA services. For employment based size standards, the minimum size standard is 500 employees, which has long been considered the anchor size standard by SBA. Outside of the Wholesale Sector (NAICS 42), which has its own special size range, only one industry Geothermal Electric Power Generation (NAICS 221116) has a size standard lower than 500 employees.

Furthermore, for contracting purposes 500 employees is used as the size standard for all Wholesale (NAICS 42) and Retail (NAICS 44–45) sales. For receipt based size standards, the minimum size standard is \$30.6 million which is equivalent to the original receipts based size standard of \$1 million in 1954 after it has been adjusted for both inflation and productivity growth.⁶⁶

For employment based size standards the equation that defines the relationship between average market size and small business size standards is as follows:

$$\begin{aligned}
 & \text{if } \text{AverageMarketSize}_i < 500 \text{ employees: } \text{SizeStandard}_i \\
 & \quad = 500 \text{ employees} \\
 & \text{if } \text{AverageMarketSize}_i \geq 500 \text{ employees: } \text{SizeStandard}_i \\
 & \quad = \left(\frac{\text{AverageMarketSize}_i}{500 \text{ employees}} \right)^{0.2686} \times 500 \text{ employees}
 \end{aligned} \tag{10}$$

The exponent in equation 10 has been chosen such that the size standard is defined by two anchor points. The low anchor point is the minimum size standard of 500 employees at an average market size of 500 employees, and the high anchor point is a size standard of 2,500 employees when the average market size is 200,000 employees.⁶⁷

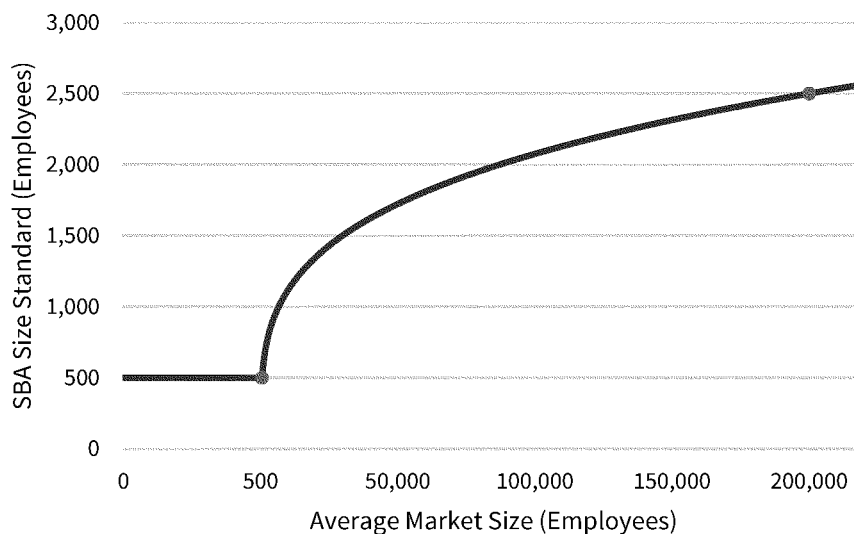
SBA choose this high anchor point because it believes that a firm with 2,500 employees would not be dominant in a market with 200,000 employees, since it would have a low market share of 1.25 percent. Due to the formula for calculating size standards, there is no explicit maximum size standard; rather, the calculated size

standard grows more slowly as the average market size gets bigger as seen below in Figure 1. When moving from an average market size of 500 to 1,000 employees the size standard increases by 102 employees, whereas when the average market size increases from 200,000 to 200,500 employees it increases by just 2 employees.

⁶⁶ See the discussion in Section 7 for further details on this calculation.

⁶⁷ The exact equation of the exponent is as follows: $\ln(2,500 \text{ employees}/500 \text{ employees}) + \ln(200,000 \text{ employees}/500 \text{ employees}) = 0.2686$.

Figure 4: Relationship Between Average Market Size and Employment Based Size Standards



Notes: The x-axis is not drawn to scale. The two anchor points are shown in red. The low anchor point is the minimum size standard set at 500 employees for any industry groups or industries with an average market size less than that value. The high anchor point is set at 2,500 employees when the average market size is 200,000. See details in the main body for exact formula and an explanation for the chosen anchor points.

For receipt based size standards the equation that defines the relationship

between average market size and small business size standards is much the

same, just with employment levels replaced with receipts:

$$\begin{aligned}
 & \text{if } \text{AverageMarketSize}_i < \$30.6 \text{ million: } \text{SizeStandard}_i = \$30.6 \text{ million} \\
 & \text{if } \text{AverageMarketSize}_i \geq \$30.6 \text{ million: } \text{SizeStandard}_i \\
 & \qquad = \left(\frac{\text{AverageMarketSize}_i}{\$30.6 \text{ million}} \right)^{0.4310} \times \$30.6 \text{ million}
 \end{aligned} \tag{11}$$

The exponent in equation 11 has been chosen such that the size standard is defined by two anchor points. The low anchor point is the minimum size standard of \$30.6 million when the average market size is also \$30.6 million. The high anchor point is a size standard of \$500 million when the

average market size is \$20 billion.⁶⁸ SBA choose this high anchor point because it believes that a firm with \$500 million in receipts would not be dominant in a market with \$20 billion

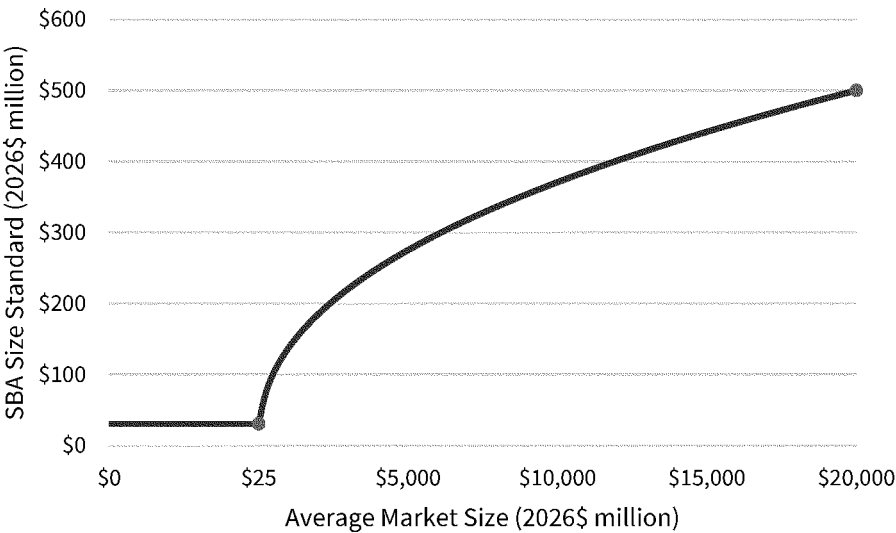
⁶⁸ The exact equation of the exponent is as follows: $\ln(\$500 \text{ million}/\$30.6 \text{ million}) \div \ln(\$20 \text{ billion}/\$30.6 \text{ million}) = 0.4310$.

in receipts, since it would have a low market share of 2.5 percent. Due to the formula for calculating size standards there is no explicit maximum size standard, rather the calculated size standard grows more slowly as the average market size gets bigger as seen below in Figure 2. When moving from

an average market size of \$30 million to \$130 million the size standard increases by \$26.5 million, whereas when the

average market size increases from \$20 billion to \$20.1 billion it increases by just \$1.3 million.

Figure 5: Relationship Between Average Market Size and Receipts Based Size Standards



Notes: The x-axis not drawn to scale. The two anchor points are shown in red. The low anchor point is the minimum size standard set at \$30.6 million in receipts for any industry groups or industries with an average market size less than \$30.6 million. The high anchor point is set at \$500 million in receipts when the average market size is \$20 billion. See details in the main body for exact formula and an explanation for the chosen anchor points.

The final piece in calculating size standards is to round the output so that they are more easily digestible to both small businesses and those working to support them. For employment based size standards, size standards are rounded to the nearest 50 employees. This is the same degree of rounding that the 2024 methodology used for employment based size standards outside of Wholesale Trade (NAICS Sector 42), where size standards were rounded to the nearest 25 employees. For receipts based size standards, size standards are rounded to the nearest \$1 million in receipts. This is not the same degree of rounding that the 2024 methodology used for receipt based size standards which instead rounded to the nearest \$0.5 million for most industries and \$0.25 million for farming (NAICS

111 and NAICS 112). The proposed change in rounding is because of the generally higher size standards brought about by adjusting them for productivity which raises the minimum size standard from \$8 million to \$31 million. One final industry group remains which needs a size standard, Depository Credit Institutions (NAICS 5221), which the SBA is proposing to continue with an asset based size standard. Depository Institutions, such as banks and credit unions, face additional fluctuations in their receipts as compared with other industries because both their receipts and expenses are tied closely to interest rates. For example, across all federally insured depository institutions, receipts increased 19.8 percent between 2021 and 2022 while total assets remained flat and net income fell 4.0 percent due

to rising interest rates.⁶⁹ As such the SBA has proposed size standards for these firms in total assets since 1984 (49 FR 40399). Total assets is the preferred measure for size standards for these firms because financial regulators also use it for classifying firms by size. To calculate the asset based size standard, the SBA first begins with receipts based size standard calculated for the industry group, of \$222 million. The asset based is then determined by multiplying this by the ratio of total assets to total receipts in 2022 in the Federal Deposit Insurance Corporation’s 2023 Quarterly Banking Report and the National Credit Union Administration’s Quarterly Data

⁶⁹ Quarterly Banking Report—Federal Deposit Insurance Corporation and Quarterly Data Summary Report—National Credit Union Administration.

Summary Report, which was 22.66. This gives a size standard of \$5,031 million when rounded to the nearest million dollars.

SBA's objective in proposing this size standard methodology is to ensure no dominant firms are misclassified as small businesses while minimizing the number of non-dominant firms which are misclassified as large businesses. Like the current size standards, however, a number of firms that are dominant may inevitably be captured under a size standard by virtue of setting size standards at any level higher than a business-by-business level. For example, businesses such as a lone gas station for one hundred miles on a rural highway can have a dominant market position even with just a few employees because the market is small. SBA requests comment on potential additional avenues to ensure no dominant firms are captured.

The proposed methodology recommends increasing most size standards though there are exceptions. Under the methodology, 114 thousand businesses would be expected to be reclassified as small businesses due to the proposed changes in methodology.⁷⁰ The industry groups with the most new small businesses would be expected to be Management of Companies and Enterprises (NAICS 5511), Restaurants and Other Eating Places (NAICS 7225), Other Miscellaneous Retailers (NAICS 4599), and Building Equipment Contractors (NAICS 2382) each with more than 4,000 business that would be expected to reclassify. Amongst industry groups with at least 1,000 current small businesses, the industries which would see the largest percentage change in small businesses are Colleges, Universities, and Professional Schools (NAICS 6113) with a 54% increase, General Medical and Surgical Hospitals (NAICS 6221) with a 45% increase, and Management of Companies and Enterprises (NAICS 5511) with a 38% increase. Amongst industry groups

which would lose small business status, the two with the greatest number are Wired and Wireless Telecommunications (except Satellite) (NAICS 5171) and Waste Collection (NAICS 5621) which would be expected to see 41 and 33 new large businesses respectively. All other industries would be expected to see fewer than 20 new large businesses.⁷¹ In total 172 businesses currently classified as small would be expected to lose that status.

⁷¹ The full list of industries with new large businesses is as follows:

Electric Power Generation, Transmission and Distribution (NAICS 2211) 14 new large businesses.

Natural Gas Distribution (NAICS 2212) 17 new large businesses.

Sugar and Confectionery Products (NAICS 3113) Manufacturing 1 new large business.

Bakeries and Tortilla Manufacturing (NAICS 3118) 2 new large businesses.

Other Food Manufacturing (NAICS 3119) 2 new large businesses.

Beverage Manufacturing (NAICS 3121) 3 new large businesses.

Tobacco Manufacturing (NAICS 3122) 4 new large businesses.

Other Textile Product Mills (NAICS 3149) 4 new large businesses.

Petroleum and Coal Products Manufacturing (NAICS 3241) 2 new large businesses.

Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing (NAICS 3253) 7 new large businesses.

Soap, Cleaning Compound, and Toilet Preparation Manufacturing (NAICS 3256) 4 new large businesses.

Glass and Glass Product Manufacturing (NAICS 3272) 2 new large businesses.

Cement and Concrete Product Manufacturing (NAICS 3273) 3 new large business.

Industrial Machinery Manufacturing (NAICS 3332) 2 new large businesses.

Commercial and Service Industry Machinery Manufacturing (NAICS 3333) 10 new large businesses.

Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing (NAICS 3334) 4 new large businesses.

Engine, Turbine, and Power Transmission Equipment Manufacturing (NAICS 3336) 1 new large business.

Nonscheduled Air Transportation (NAICS 4812) 2 new large businesses.

Pipeline Transportation of Crude Oil (NAICS 4861) 3 new large businesses.

Other Pipeline Transportation (NAICS 4869) 3 new large businesses.

Wired and Wireless Telecommunications (except Satellite) (NAICS 5171) 41 new large businesses.

Insurance Carriers (NAICS 5241) 3 new large businesses.

Waste Collection (NAICS 5621) 33 new large businesses.

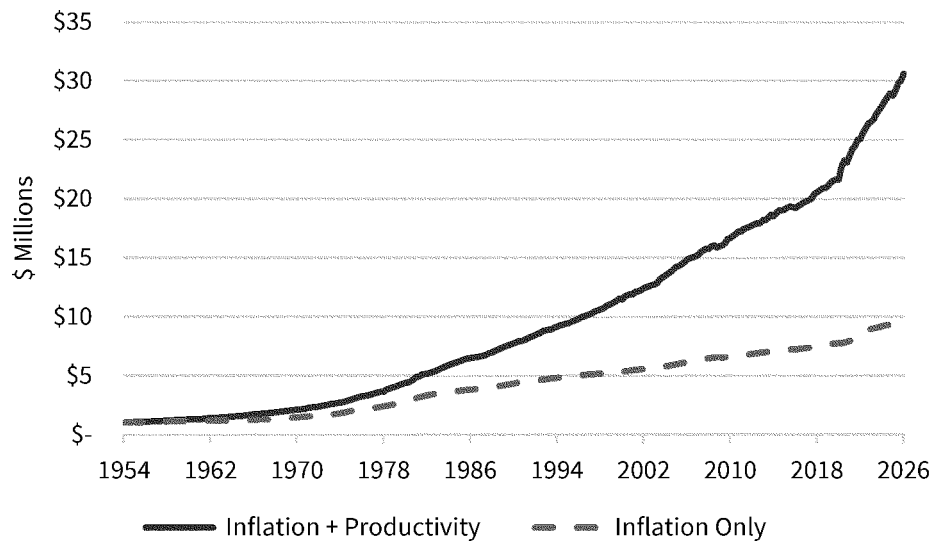
Drycleaning and Laundry Services (NAICS 8123) 5 new large businesses.

7. Adjustment to Receipts Based Size Standards for Productivity Growth and Inflation

SBA makes adjustments to its receipts based size standards when necessary. Adjustments are proposed to be made for two factors the general price increases of inflation and the improving productivity of the U.S. Economy. Prior versions of SBA size standard methodology only adjusted for inflation. Without considering productivity growth in its size standards, SBA put small businesses in industries with a receipts based size standard at a disadvantage to those in industries with an employee based size standard, which have an implicit adjustment for productivity built in. Productivity growth allows small businesses with a given set of resources (time, capital, materials) to more efficiently convert them into useable goods and services. Productivity growth leads to greater output that is not captured by inflation. Without accounting for productivity, the size standards are left with an incomplete assessment of small business size. Over the 72 years since SBA adopted its first receipts based size standard of \$1 million, the change in productivity has been substantial. As seen in 6, when only adjusting receipt based size standards for inflation as measured by the Gross Domestic Product (GDP) implicit price deflator the original \$1 million size standard is the equivalent to \$9.7 million in the first quarter of 2026. However, when using both inflation and productivity the equivalent size standard in 2026 is \$30.6 million. Without adjusting for productivity, the SBA has presumed that businesses with receipts based size standards are operating in a similar way to their counterparts 72 years ago. The SBA has repeatedly received petitions to raise size standards or use employee-based standards so that small firms can continue to stay relevant in their industry and withstand rapid, ever-changing economic realities, additional requirements in contracts expanding what the government is procuring, changing costs of doing business, shrinking margins, and various other shifts that the prior SBA size standards were unable to swiftly react to.

⁷⁰ This number excludes any increases in the number of small businesses in the farming industries (NAICS 111 and 112), and Insurance and Employee Benefit Funds (NAICS 5251), which are not included in SUBS. There may be as many as 38 thousand farms that could gain small business status though the Census of Agriculture lacks detailed data on firm size by employment to make a confident estimate.

Figure 6: Adjusting the Original Receipts Based Size Standard for Productivity Growth and Inflation



Notes: SBA originally adopted a monetary size standard of \$1 million in 1954. Inflation is measured using the implicit GDP price deflator from the Bureau of Economic Analysis. Inflation plus productivity is measured using GDP divided by total employment from the Bureau of Economic Analysis and Bureau of Labor Statistics respectively. All data is seasonally adjusted and was accessed through the Federal Reserve Bank of St. Louis (FRED.org).

To adjust receipt values for both inflation and productivity changes, SBA creates an index of the GDP per employee in the U.S. economy. Data on

GDP comes from the BEA, while data on total employment comes from the Bureau of Labor Statistics. Both are accessed through the Federal Reserve

Bank of St. Louis for convenience.⁷² The cumulative inflation and productivity growth between any two periods is then calculated as follows:

$$\begin{aligned} & \text{Inflation} + \text{Productivity Growth (\%)} \\ &= \left(\frac{\text{GDPperEmployee}_{\text{EndPeriod}}}{\text{GDPperEmployee}_{\text{BasePeriod}}} - 1 \right) \times 100\% \end{aligned} \quad (12)$$

where the End Period is the period that data was collected or the most recent

period for which GDP per employee can be calculated when adjusting monetary

size standards, and the base period is the last period for which size standards

⁷² Federal Reserve Economic Data—Federal Reserve Bank of St. Louis.

have been adjusted for inflation and productivity. Since receipt based size standards have never been adjusted for both inflation and productivity, the base period for adjusting size standards in this document is the first quarter of 1954. This puts the minimum size standard in the first quarter of 2026 at \$30.6 million, while for the first quarter of 2022 when the vast majority of the data used to calculate size standards was collected the minimum size standard would be \$25.1 million. These numbers are reflected in the above section on calculating size standards.

When SBA revises size standards in accordance with its regular review of all size standards are required under the Jobs Act (Pub. L. 111–240, 124 Stat. 2504; September 27, 2010), it will also adjust all receipt based size standards for inflation and productivity growth. Given the long gaps between the regular reviews, SBA may also adjust monetary size standards more frequently for inflation and productivity growth as it deems necessary.

8. Discussion on the Changes in Methodology

- The proposed size standard methodology represents a significant departure from the previous version published in 2024.⁷³ As such a detailed discussion of the changes in methodology is warranted to inform the public on why these changes were proposed. The five most significant changes are:

- Changing the NAICS level at which size standards are calculated from the 6-digit NAICS code to a mix of 4- and 5-digit NAICS codes—In the current version of SBA size standards, there are nearly 1,000 unique size standards, with numerous exceptions for federal contracting purposes. For example, there is currently a different size standard for Ship Building (1,300 employees) than there is for Boat Building (1,000 employees). While Ships are larger than boats and are more likely to be used for commercial purposes, there is gray area where a firm could be uncertain which standard applied to them. This uncertainty can be resolved as both NAICS 6-digit industries are combined into a single 4-digit industry group. Along with change in aggregation, SBA has also chosen to remove all size standard exceptions.

- Converting numerous industry groups and industries from receipt based size standards to an employment based one—In the current version of SBA size standards, it is the default to assume that outside of manufacturing

and services where Congress specified the measure for size standards, an industry should have a receipts-based size standard unless certain conditions are met including highly capital intensive industries and low operational costs. This method had 51.6% of size standard be receipts based and 88.8% of all employer firms being in those industries. The proposed methodology takes the opposite approach and defaults to an employment based size standard for all industry groups and industries except service based ones where Congress specified that a receipts based size standard must be used.⁷⁴ As discussed above, this new method is intended to decrease the fluctuations of firms between small and large business status, especially for Federal contractors. The proposed change also would lower the percentage of size standards with a receipts based size standard to 37.9%, and the number of firms with one to 58.2%.

- Updated factors determining small business size standards—In the current version of SBA's methodology there are seven factors that are used to determine small business size standards: simple average firm size, weighted average firm size, average assets per firm, national four firm concentration ratio, national Gini coefficient, and two disparity measures of federal contracts when an industry receives more than \$20 million in federal contracts. These factors, while often associated with a firm's dominance in its field of operation, did not directly relate and in some cases led size standards astray. For example, the small size of farms led SBA to giving them size standards far below firms in other sectors of the economy despite the fact that the markets they competed in are national in scope. The proposed method uses just three measures: national industry size, number of geographic markets, and an adjustment for net imports which are combined into an average market size measure. The change in factors is intended to more closely align the size standards methodology with the statutory language of the Small Business Act that a small business is one which is "not dominant in its field of operation." A field of operations should include both the goods or services and business provides but also the geographic area in which they compete, similar to the way the Federal Trade Commission (FTC) and Antitrust Division of the Department of Justice (DOJ) define a market in their Horizontal Merger

Guidelines.⁷⁵ A firm may be relatively small nationally but be dominant in a small market as is the case with hospitals which are among the most challenged industry group by the FTC and DOJ despite a very low national concentration.⁷⁶ On the other hand, a firm could be much larger nationally but not be dominant because it competes in a national or even international market. Such is the case with Oil and Gas extraction where the FTC has implemented regulations to exempt acquisitions of mineral rights from the ordinary requirements of premerger notification (16 CFR 802.3 last amended 70 FR 4994, January 31, 2005).

- Updated the formula for how factors translate to size standards—The current size standard methodology creates a size standard for each of the seven factors discussed above and then averages those together. In selecting size standards, SBA compares an industry's factor to its relative position among a comparison group of industries. This can lead to unintended consequences if an industry's factor suggests in the absolute case that a size standard should be raised, but the comparison group's factors rose faster leading instead to a recommendation that size standards be lowered. Many of the factors also have a significant skew which led to very high recommended size standards, or, in the case of Gini coefficient size standards less than zero which required the imposition of minimums and maximums to be imposed at early stages in the size standard setting process. The proposed methodology instead uses a different approach of combining its three factors into a single measure, average market size, from which size standards are calculated. Like the factors of the current methodology this measure is skewed but that skew is addressed differently. As average market size grows larger so to do size standards, but at a decreasing rate. This means that there is no maximum size standard. A minimum size standard is kept to ensure that all businesses that are small in absolute size can still access SBA programs.

- Added in a productivity growth adjustment for monetary based size standards—SBA has since 1975 (40 FR 32824; August 5, 1975) periodically adjusted receipt based size standards upwards to account for inflation; however, it has to date never adjusted size standards for productivity growth. Without a productivity growth

⁷⁵ 2023 Merger Guidelines—Antitrust Division, Department of Justice.

⁷⁶ Annual Competition Reports—Federal Trade Commission.

⁷³ SBA'S Size Standards Methodology.

⁷⁴ 15 U.S.C. 632(a)(2)(C)(ii)(II).

adjustment, receipt based size standards have fallen out of step with employment based ones which have a natural productivity adjustment built in since a business is free to invest in productivity enhancing technology or training without risk of losing its small business status. By adopting this change small businesses will not lose their small business status due to the general productivity growth of the entire U.S. economy.

9. Public Comments

Public comments on proposed size standard rules provide additional important information. These comments can supplement SBA's analysis of industry structure or the data it used, thereby enabling it to consider other relevant information, where appropriate, in the final decision on a size standard. SBA welcomes and thoroughly reviews all public comments before making final decisions on proposed changes to size standards methodology. While SBA welcomes comments on any aspect of its proposed methodology, including reliance interests implicated by using such methodology to update size standards, in particular SBA is interested in the following questions:

- Has SBA chosen the appropriate level of aggregation? Are there markets where the 4-digit NAICS code is too general and a more granular 5-digit NAICS code would be more appropriate? Conversely are some of the industries for which the SBA is proposing a size standard at the 5-digit level too narrow and should be aggregated to the 4-digit level?
- Has SBA chosen the appropriate size measure for all industry groups and industries? Should some with employment based size standards have a receipt based one or vis versa? Should some have their size standard defined in terms of some other measure besides employment or receipts?

- Has SBA used the most appropriate data sources for incorporating industry groups and industries not included in SUSB, NES, and CBP? Are there more industry groups and industries which have a significant presence of government owned entities which should be incorporated? If so, what publicly accessible data sources produced by Federal agencies are most appropriate to use?

- Does the algorithm for calculating the number of geographic markets produce reasonably sized markets for industry groups and industries in general? If not are the geographic markets systematically too large or too small? Are the deviations SBA proposes appropriate? Are there more industry groups or industries where the general method produces inconsistent results and requires adjustment?

- Has SBA chosen the proper anchor points in its formula for calculating size standards from an industry's average market size? Are the current minimum size standards too low or too high? Are the current high anchor points too low or too high?

- Has SBA chosen the most appropriate measure to increase receipts based size standards for both inflation and productivity growth?

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11. Appendix

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Table A: Proposed Size Standards and Factors for All Industry Groups and Industries

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		323,438			261,035	2,700	
1111	Oilseed and Grain Farming	employees	1	0.807	employees	employees	1
		209,029			276,264	2,750	
1112	Vegetable and Melon Farming	employees	1	1.322	employees	employees	1
		483,342			704,017	3,500	
1113	Fruit and Tree Nut Farming	employees	1	1.457	employees	employees	1
		30,784			33,849	1,550	
11141	Food Crops Grown Under Cover	employees	1	1.010	employees	employees	1
		253,234			278,445	2,750	
11142	Nursery and Floriculture Production	employees	1	1.010	employees	employees	1
		227,173			188,159	2,450	
1119	Other Crop Farming	employees	1	0.828	employees	employees	1
NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		394,617			399,187	3,000	
1121	Cattle Ranching and Farming	employees	1	1.012	employees	employees	1
		46,054			50,973	1,750	
1122	Hog and Pig Farming	employees	1	1.107	employees	employees	1
		14,647			14,460	1,250	
11231	Chicken Egg Production	employees	1	0.987	employees	employees	1
	Broilers and Other Meat Type Chicken	48,438			47,821	1,700	
11232	Production	employees	1	0.987	employees	employees	1
		8,542			8,433	1,050	
11233	Turkey Production	employees	1	0.987	employees	employees	1
		3,957			3,907	850	
11234	Poultry Hatcheries	employees	1	0.987	employees	employees	1
					818	550	
11239	Other Poultry Production	829 employees	1	0.987	employees	employees	1

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		13,109			14,509	1,250	
11241	Sheep Farming	employees	1	1.107	employees	employees	1
		7,497			8,298	1,050	
11242	Goat Farming	employccs	1	1.107	employccs	employccs	1
		87,656			97,018	2,050	
1125	Aquaculture	employees	1	1.107	employees	employees	1
		32,147			35,581	1,550	
1129	Other Animal Production	employees	1	1.107	employees	employees	1
		3,769			3,872	850	
1131	Timber Tract Operations	employees	1	1.027	employees	employees	
	Forest Nurseries and Gathering of Forest					500	
1132	Products	983 employees	33	1.027	31 employees	employees	4
		44,839			23,031	1,400	
1133	Logging	employccs	2	1.027	employccs	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
					\$7,488	\$327	
1141	Fishing	\$6,916 million in receipts	2	2.165	million in receipts	million in receipts	
					\$1,394	\$159	
1142	Hunting and Trapping	\$1,288 million in receipts	2	2.165	million in receipts	million in receipts	
		\$33,324 million in			\$33,386 million in	\$624 million in	
1151	Support Activities for Crop Production	receipts	1	1.002	receipts	receipts	
		\$9,843 million			\$214 million	\$71 million	
1152	Support Activities for Animal Production	in receipts	46	1.002	in receipts	in receipts	
					\$2,147	\$191	
		\$4,285 million			million in	million in	
1153	Support Activities for Forestry	in receipts	2	1.002	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		83,785			129,581	2,200	
2111	Oil and Gas Extraction	employees	1	1.547	employees	employees	
		39,892			33,997	1,550	
2121	Coal Mining	employccs	1	0.852	employccs	employccs	
		37,310			26,879	1,450	
2122	Metal Ore Mining	employees	1	0.720	employees	employees	
		88,444			5,382	950	
2123	Nonmetallic Mineral Mining and Quarrying	employees	17	1.035	employees	employees	
		256,517			252,186	2,650	
2131	Support Activities for Mining	employees	1	0.983	employees	employees	
	Electric Power Generation, Transmission and	500,340			1,992	700	
2211	Distribution	employees	251	0.999	employees	employees	1
		91,315			164	500	
2212	Natural Gas Distribution	employccs	554	0.993	employccs	employccs	1 4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		48,022				500	
2213	Water, Sewage and Other Systems	employees	554	0.991	86 employees	employees	1 4
		998,511			836	550	
2361	Residential Building Construction	employees	1195	1	employees	employees	3
		702,604			994	600	
2362	Nonresidential Building Construction	employees	707	1	employees	employees	3
	Water and Sewer Line and Related Structures	163,398			1,618	700	
23711	Construction	employees	101	1	employees	employees	3
	Oil and Gas Pipeline and Related Structures	174,940			87,470	2,000	
23712	Construction	employees	2	1	employees	employees	3
	Power and Communication Line and Related	259,541			28,838	1,500	
23713	Structures Construction	employees	9	1	employees	employees	3
		26,125			3,732	850	
2372	Land Subdivision	employees	7	1	employees	employees	3

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		305,447			1,776	700	
2373	Highway, Street, and Bridge Construction	employees	172	1	employees	employees	3
	Other Heavy and Civil Engineering	84,647			4,031	900	
2379	Construction	employecs	21	1	employecs	employecs	3
	Foundation, Structure, and Building Exterior	1,005,066			1,386	650	
2381	Contractors	employees	725	1	employees	employees	3
	Electrical Contractors and Other Wiring	978,786			737	550	
23821	Installation Contractors	employees	1328	1	employees	employees	3
	Plumbing, Heating, and Air-Conditioning	1,222,398			637	550	
23822	Contractors	employees	1920	1	employees	employees	3
		148,350			724	550	
23829	Other Building Equipment Contractors	employees	205	1	employees	employees	3
		1,032,285			927	600	
2383	Building Finishing Contractors	employecs	1114	1	employecs	employecs	3

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		858,283			742	550	
2389	Other Specialty Trade Contractors	employees	1157	1	employees	employees	3
		60,566			58,697	1,800	
3111	Animal Food Manufacturing	employccs	1	0.969	employccs	employccs	
		59,299			60,801	1,800	
3112	Grain and Oilseed Milling	employees	1	1.025	employees	employees	
		14,469			1,830	700	
31131	Sugar Manufacturing	employees	9	1.138	employees	employees	
		27,810			4,522	900	
31134	Nonchocolate Confectionery Manufacturing	employees	7	1.138	employees	employees	
		44,139			16,747	1,300	
31135	Chocolate and Confectionery Manufacturing	employees	3	1.138	employees	employees	
		88,985			94,062	2,050	
31141	Frozen Food Manufacturing	employccs	1	1.057	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Fruit and Vegetable Canning, Pickling, and	74,220			81,472	1,950	
31142	Drying	employees	1	1.098	employees	employees	
		162,270			159,271	2,350	
3115	Dairy Product Manufacturing	employccs	1	0.982	employccs	employccs	
		534,042			85,259	2,000	
3116	Animal Slaughtering and Processing	employees	6	0.958	employees	employees	
		23,302			15,165	1,250	
3117	Seafood Product Preparation and Packaging	employees	2	1.302	employees	employees	
		227,516			4,030	900	
31181	Bread and Bakery Product Manufacturing	employees	60	1.063	employees	employees	
		54,591			6,943	1,000	
31182	Cookie, Cracker, and Pasta Manufacturing	employees	8	1.017	employees	employees	
		20,644			21,005	1,350	
31183	Tortilla Manufacturing	employccs	1	1.017	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		251,779			8,550	1,050	
3119	Other Food Manufacturing	employees	30	1.019	employees	employees	
		266,947			11,566	1,150	
3121	Beverage Manufacturing	employccs	27	1.170	employccs	employccs	
		11,784			11,769	1,150	
3122	Tobacco Manufacturing	employees	1	0.999	employees	employees	
		20,713			14,800	1,250	
3131	Fiber, Yarn, and Thread Mills	employees	1	0.715	employees	employees	
		13,806			17,469	1,300	
31321	Broadwoven Fabric Mills	employees	1	1.265	employees	employees	
	Narrow Fabric Mills and Schiffli Machine	5,173			2,182	750	
31322	Embroidery	employees	3	1.265	employees	employees	
		16,609			21,016	1,350	
31323	Nonwoven Fabric Mills	employccs	1	1.265	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		5,278			2,226	750	
31324	Knit Fabric Mills	employees	3	1.265	employees	employees	
	Textile and Fabric Finishing and Fabric	22,161			23,764	1,400	
3133	Coating Mills	employecs	1	1.072	employecs	employecs	
		27,178			33,311	1,550	
31411	Carpet and Rug Mills	employees	1	1.226	employees	employees	
		20,750			2,746	800	
31412	Curtain and Linen Mills	employees	32	4.234	employees	employees	
		57,614			1,022	600	
3149	Other Textile Product Mills	employecs	91	1.614	employecs	employecs	
		8,915			82,964	1,950	
3151	Apparel Knitting Mills	employees	1	9.306	employees	employees	
		52,089			242,372	2,650	
3152	Cut and Sew Apparel Manufacturing	employecs	2	9.306	employecs	employecs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Apparel Accessories and Other Apparel	9,093			7,693	1,050	
3159	Manufacturing	employees	11	9.306	employees	employees	
		3,276			4,407	900	
3161	Leather and Hide Tanning and Finishing	employecs	7	9.415	employecs	employecs	
		10,154			31,866	1,550	
3162	Footwear Manufacturing	employees	3	9.415	employees	employees	
	Other Leather and Allied Product	12,886			15,165	1,250	
3169	Manufacturing	employees	8	9.415	employees	employees	
		89,655			99,839	2,050	
3211	Sawmills and Wood Preservation	employees	1	1.114	employees	employees	
	Veneer, Plywood, and Engineered Wood	84,736			9,719	1,100	
3212	Product Manufacturing	employees	11	1.262	employees	employees	
		270,957			30,097	1,500	
3219	Other Wood Product Manufacturing	employecs	10	1.111	employecs	employecs	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
		91,740			30,284	1,500	
3221	Pulp, Paper, and Paperboard Mills	employees	3	0.990	employees	employees	
		263,583			67,568	1,850	
3222	Converted Paper Product Manufacturing	employccs	4	1.025	employccs	employccs	
		394,782			14,224	1,250	
3231	Printing and Related Support Activities	employees	28	1.009	employees	employees	
		99,875			15,581	1,250	
3241	Petroleum and Coal Products Manufacturing	employees	6	0.936	employees	employees	
		163,843			23,631	1,400	
3251	Basic Chemical Manufacturing	employees	7	1.010	employees	employees	
		97,215			14,390	1,250	
32521	Resin and Synthetic Rubber Manufacturing	employees	6	0.888	employees	employees	
	Artificial and Synthetic Fibers and Filaments	14,565			14,188	1,250	
32522	Manufacturing	employccs	1	0.974	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Pesticide, Fertilizer, and Other Agricultural	34,455			871	600	
3253	Chemical Manufacturing	employees	44	1.112	employees	employees	
		314,474			157,410	2,350	
3254	Pharmaceutical and Medicine Manufacturing	employees	3	1.502	employees	employees	
		72,712			13,771	1,200	
3255	Paint, Coating, and Adhesive Manufacturing	employees	5	0.947	employees	employees	
	Soap, Cleaning Compound, and Toilet	111,257			8,287	1,050	
3256	Preparation Manufacturing	employees	13	0.968	employees	employees	
	Other Chemical Product and Preparation	88,056			5,012	950	
3259	Manufacturing	employees	17	0.968	employees	employees	
		671,909			180,023	2,450	
3261	Plastics Product Manufacturing	employees	4	1.072	employees	employees	
		140,610			46,838	1,700	
3262	Rubber Product Manufacturing	employees	4	1.332	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		36,095			3,421	850	
3271	Clay Product and Refractory Manufacturing	employees	18	1.706	employees	employees	
		89,004			8,633	1,050	
3272	Glass and Glass Product Manufacturing	employccs	12	1.164	employccs	employccs	
		13,978			2,247	750	
32731	Cement Manufacturing	employees	7	1.125	employees	employees	
		88,584			712	550	
32732	Ready-Mix Concrete Manufacturing	employees	124	0.997	employees	employees	
	Concrete Pipe, Brick, and Block	22,051			245	500	
32733	Manufacturing	employees	90	1.001	employees	employees	4
		60,056			759	550	
32739	Other Concrete Product Manufacturing	employees	91	1.150	employees	employees	
		3,986			1,325	650	
32741	Lime Manufacturing	employccs	3	0.997	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		11,865			1,691	700	
32742	Gypsum Product Manufacturing	employees	7	0.997	employees	employees	
	Other Nonmetallic Mineral Product	82,142			4,631	900	
3279	Manufacturing	employees	21	1.184	employees	employees	
	Iron and Steel Mills and Ferroalloy	79,317			48,291	1,700	
3311	Manufacturing	employccs	2	1.218	employccs	employccs	
	Iron and Steel Pipe and Tube Manufacturing	24,835			16,430	1,300	
33121	from Purchased Steel	employees	2	1.323	employees	employees	
		27,905			12,307	1,200	
33122	Rolling and Drawing of Purchased Steel	employccs	3	1.323	employccs	employccs	
	Alumina and Aluminum Production and	58,231			26,117	1,450	
3313	Processing	employees	3	1.345	employees	employees	
	Nonferrous Metal (except Aluminum)	55,042			71,592	1,900	
3314	Production and Processing	employees	1	1.301	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		56,611			13,983	1,200	
33151	Ferrous Metal Foundries	employees	4	0.988	employees	employees	
		49,781			12,460	1,200	
33152	Nonferrous Metal Foundries	employees	4	1.001	employees	employees	
		93,952			31,519	1,500	
3321	Forging and Stamping	employccs	3	1.006	employccs	employccs	
		33,171			14,671	1,250	
3322	Cutlery and Handtool Manufacturing	employees	4	1.769	employees	employees	
	Architectural and Structural Metals	403,726			5,626	950	
3323	Manufacturing	employees	75	1.045	employees	employees	
	Boiler, Tank, and Shipping Container	88,670			18,407	1,300	
3324	Manufacturing	employees	5	1.038	employees	employees	
		30,575			13,213	1,200	
3325	Hardware Manufacturing	employccs	4	1.729	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		34,855			13,366	1,200	
3326	Spring and Wire Product Manufacturing	employees	3	1.150	employees	employees	
	Machine Shops; Turned Product; and Screw,	355,579			73,384	1,900	
3327	Nut, and Bolt Manufacturing	employees	5	1.032	employees	employees	
	Coating, Engraving, Heat Treating, and Allied	118,006			29,299	1,500	
3328	Activities	employees	4	0.993	employees	employees	
		253,270			14,629	1,250	
3329	Other Fabricated Metal Product Manufacturing	employees	21	1.213	employees	employees	
	Agriculture, Construction, and Mining	190,488			215,413	2,550	
3331	Machinery Manufacturing	employees	1	1.131	employees	employees	
		114,019			16,236	1,250	
3332	Industrial Machinery Manufacturing	employees	7	0.997	employees	employees	
	Commercial and Service Industry Machinery	77,047			3,854	850	
3333	Manufacturing	employees	27	1.351	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment	145,052			8,154	1,050	
3334	Manufacturing	employees	22	1.237	employees	employees	
		136,227			57,408	1,800	
3335	Metalworking Machinery Manufacturing	employees	3	1.264	employees	employees	
	Engine, Turbine, and Power Transmission	95,564			25,568	1,450	
3336	Equipment Manufacturing	employees	4	1.070	employees	employees	
	Other General Purpose Machinery	306,936			121,221	2,200	
3339	Manufacturing	employees	3	1.185	employees	employees	
	Computer and Peripheral Equipment	36,315			194,869	2,500	
3341	Manufacturing	employees	1	5.366	employees	employees	
		71,548			131,954	2,250	
3342	Communications Equipment Manufacturing	employees	2	3.689	employees	employees	
		10,487			101,226	2,100	
3343	Audio and Video Equipment Manufacturing	employees	1	9.653	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Semiconductor and Other Electronic	269,521			304,607	2,800	
3344	Component Manufacturing	employees	1	1.130	employees	employees	
	Navigational, Measuring, Electromedical, and	403,371			86,640	2,000	
3345	Control Instruments Manufacturing	employees	5	1.074	employees	employees	
	Manufacturing and Reproducing Magnetic and	5,481			2,067	750	
3346	Optical Media	employees	3	1.131	employees	employees	
		35,030			9,340	1,100	
3351	Electric Lighting Equipment Manufacturing	employees	8	2.133	employees	employees	
		59,746			25,114	1,450	
3352	Household Appliance Manufacturing	employees	5	2.102	employees	employees	
		119,362			34,679	1,550	
3353	Electrical Equipment Manufacturing	employees	5	1.453	employees	employees	
	Other Electrical Equipment and Component	139,925			13,941	1,200	
3359	Manufacturing	employees	13	1.295	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		271,838			427,485	3,050	
3361	Motor Vehicle Manufacturing	employees	1	1.573	employees	employees	
		178,268			44,586	1,650	
3362	Motor Vehicle Body and Trailer Manufacturing	employees	4	1.000	employees	employees	
		572,851			716,012	3,500	
3363	Motor Vehicle Parts Manufacturing	employees	1	1.250	employees	employees	
		421,369			298,796	2,800	
3364	Aerospace Product and Parts Manufacturing	employees	1	0.709	employees	employees	
		24,409			13,276	1,200	
3365	Railroad Rolling Stock Manufacturing	employees	2	1.088	employees	employees	
		145,561			144,765	2,300	
3366	Ship and Boat Building	employees	1	0.995	employees	employees	
	Other Transportation Equipment	39,881			10,911	1,150	
3369	Manufacturing	employees	4	1.094	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Household and Institutional Furniture and	229,879			46,212	1,700	
3371	Kitchen Cabinet Manufacturing	employees	9	1.809	employees	employees	
	Office Furniture (including Fixtures)	105,890			33,615	1,550	
3372	Manufacturing	employees	4	1.270	employees	employees	
		23,676			2,604	800	
33791	Mattress Manufacturing	employccs	11	1.210	employccs	employccs	
		11,557			3,495	850	
33792	Blind and Shade Manufacturing	employees	4	1.210	employees	employees	
	Medical Equipment and Supplies	306,602			36,867	1,600	
3391	Manufacturing	employees	10	1.202	employees	employees	
		265,255			6,624	1,000	
3399	Other Miscellaneous Manufacturing	employees	70	1.748	employees	employees	
	Motor Vehicle and Motor Vehicle Parts and	417,408			4,061	900	
4231	Supplies Merchant Wholesalers	employccs	90	0.876	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Furniture and Home Furnishing Merchant	167,056			4,139	900	
4232	Wholesalers	employees	36	0.892	employees	employees	
	Lumber and Other Construction Materials	266,394			679	550	
4233	Merchant Wholesalers	employees	350	0.892	employees	employees	
	Professional and Commercial Equipment and	667,983			6,065	1,000	
4234	Supplies Merchant Wholesalers	employees	97	0.881	employees	employees	
	Metal and Mineral (except Petroleum)	143,707			7,539	1,050	
4235	Merchant Wholesalers	employees	17	0.892	employees	employees	
	Household Appliances and Electrical and	517,154			6,874	1,000	
4236	Electronic Goods Merchant Wholesalers	employees	66	0.877	employees	employees	
	Hardware, and Plumbing and Heating						
	Equipment and Supplies Merchant	275,892			705	550	
4237	Wholesalers	employees	349	0.892	employees	employees	
	Machinery, Equipment, and Supplies Merchant	768,223			13,045	1,200	
4238	Wholesalers	employees	50	0.849	employees	employees	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Miscellaneous Durable Goods Merchant	351,098			1,921	700	
4239	Wholesalers	employees	163	0.892	employees	employees	
	Paper and Paper Product Merchant	130,890			9,904	1,100	
4241	Wholesalers	employccs	12	0.908	employccs	employccs	
	Drugs and Druggists' Sundries Merchant	310,880			56,087	1,800	
4242	Wholesalers	employees	5	0.902	employees	employees	
	Apparel, Piece Goods, and Notions Merchant	174,809			52,906	1,750	
4243	Wholesalers	employees	3	0.908	employees	employees	
	Grocery and Related Product Merchant	843,279			1,863	700	
4244	Wholesalers	employees	423	0.935	employees	employees	
	Farm Product Raw Material Merchant	65,745			59,693	1,800	
4245	Wholesalers	employees	1	0.908	employees	employees	
	Chemical and Allied Products Merchant	162,949			2,386	750	
4246	Wholesalers	employccs	62	0.908	employccs	employccs	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
	Petroleum and Petroleum Products Merchant	98,762			6,613	1,000	
4247	Wholesalers	employees	14	0.937	employees	employees	
	Beer, Wine, and Distilled Alcoholic Beverage	209,848			549	500	
4248	Merchant Wholesalers	employccs	347	0.908	employccs	employccs	4
	Miscellaneous Nondurable Goods Merchant	338,413			5,037	950	
4249	Wholesalers	employees	61	0.908	employees	employees	
		252,511			1,962	700	
4251	Wholesale Trade Agents and Brokers	employees	119	0.925	employees	employees	
		1,311,964			455	500	
4411	Automobile Dealers	employees	2886	1	employees	employees	4
		175,190			2,336	750	
4412	Other Motor Vehicle Dealers	employees	75	1	employees	employees	
	Automotive Parts, Accessories, and Tire	580,045			187	500	
4413	Retailers	employccs	3109	1	employccs	employccs	4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		1,268,212			408	500	
4441	Building Material and Supplies Dealers	employees	3109	1	employees	employees	4
	Lawn and Garden Equipment and Supplies	182,248			2,367	750	
4442	Retailers	employccs	77	1	employccs	employccs	
		3,012,507			969	600	
4451	Grocery and Convenience Retailers	employees	3109	1	employees	employees	
		195,136			168	500	
4452	Specialty Food Retailers	employees	1160	1	employees	employees	4
		199,079			7,373	1,050	
4453	Beer, Wine, and Liquor Retailers	employees	27	1	employees	employees	
		456,496			210	500	
4491	Furniture and Home Furnishings Retailers	employees	2169	1	employees	employees	4
		227,166			144	500	
4492	Electronics and Appliance Retailers	employccs	1575	1	employccs	employccs	4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		247,907			272	500	
4551	Department Stores	employees	913	1	employees	employees	4
	Warehouse Clubs, Supercenters, and Other	2,430,729			782	550	
4552	General Merchandise Retailers	employees	3109	1	employees	employees	
		1,061,431			341	500	
4561	Health and Personal Care Retailers	employees	3109	1	employees	employees	4
		987,634			11,097	1,150	
4571	Gasoline Stations	employees	89	1	employees	employees	
		74,116			74,116	1,900	
4572	Fuel Dealers	employees	1	1	employees	employees	
		1,190,357			804	550	
4581	Clothing and Clothing Accessories Retailers	employees	1480	1	employees	employees	
		204,632			253	500	
4582	Shoe Retailers	employees	809	1	employees	employees	4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		115,216				500	
4583	Jewelry, Luggage, and Leather Goods Retailers	employees	1160	1	99 employees	employees	4
	Sporting Goods, Hobby, and Musical	447,510			323	500	
4591	Instrument Retailers	employccs	1384	1	employccs	employccs	4
		54,121				500	
4592	Book Retailers and News Dealers	employees	569	1	95 employees	employees	4
		68,883				500	
4593	Florists	employees	3024	1	23 employees	employees	4
		191,941				500	
4594	Office Supplies, Stationery, and Gift Retailers	employees	2275	1	84 employees	employees	4
		257,267			302	500	
4595	Used Merchandise Retailers	employees	853	1	employees	employees	4
		547,688			176	500	
4599	Other Miscellaneous Retailers	employccs	3109	1	employccs	employccs	4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		428,405			39,286	1,600	
4811	Scheduled Air Transportation	employees	11	1.009	employees	employees	
		51,323			17,257	1,300	
4812	Nonscheduled Air Transportation	employecs	3	1.009	employecs	employecs	
		179,307			145,592	2,300	
4821	Rail Transportation	employees	1	0.812	employees	employees	1
	Deep Sea, Coastal, and Great Lakes Water	38,646			24,646	1,400	
4831	Transportation	employees	1	0.638	employees	employees	
		19,407			12,376	1,200	
4832	Inland Water Transportation	employees	1	0.638	employees	employees	
		\$496,623			\$3,835	\$245	
		million in			million in	million in	
4841	General Freight Trucking	receipits	116	0.896	receipits	receipits	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$190,127				\$114	
		million in			\$653 million	million in	
4842	Specialized Freight Trucking	receipts	261	0.896	in receipts	receipts	
		\$121,038					
		million in			\$218 million	\$71 million	
4851	Urban Transit Systems	receipts	554	1	in receipts	in receipts	1
		\$1,982 million			\$396 million	\$92 million	
4852	Interurban and Rural Bus Transportation	in receipts	5	1	in receipts	in receipts	
		\$60,765					
		million in			\$110 million	\$53 million	
4853	Taxi and Limousine Service	receipts	554	1	in receipts	in receipts	2
		\$15,408					
		million in			\$28 million in	\$31 million	
4854	School and Employee Bus Transportation	receipts	554	1	receipts	in receipts	2 4

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$4,941 million			\$291 million	\$81 million	
4855	Charter Bus Industry	in receipts \$16,318	17	1	in receipts	in receipts \$121	
	Other Transit and Ground Passenger	million in			\$742 million	million in	
4859	Transportation	receipts 9,703	22	1	in receipts 7,498	receipts 1,050	
4861	Pipeline Transportation of Crude Oil	employees \$46,414 million in	1	0.773	employees \$17,932 million in	employees \$477 million in	
4862	Pipeline Transportation of Natural Gas	receipts 8,985	2	0.773	receipts 6,943	receipts 1,000	
4869	Other Pipeline Transportation	employees \$1,314 million	1	0.773	employees \$327 million	employees \$85 million	
4871	Scenic and Sightseeing Transportation, Land	in receipts	4	0.996	in receipts	in receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
					\$1,370	\$157	
		\$2,751 million			million in	million in	
4872	Scenic and Sightseeing Transportation, Water	in receipts	2	0.996	receipts	receipts	
						\$117	
		\$685 million in			\$682 million	million in	
4879	Scenic and Sightseeing Transportation, Other	receipts	1	0.996	in receipts	receipts	
		\$48,953			\$5,415	\$285	
		million in			million in	million in	
4881	Support Activities for Air Transportation	receipts	9	0.996	receipts	receipts	
		\$10,435			\$2,078	\$188	
		million in			million in	million in	
4882	Support Activities for Rail Transportation	receipts	5	0.996	receipts	receipts	
		\$39,768			\$39,593	\$671	
		million in			million in	million in	
4883	Support Activities for Water Transportation	receipts	1	0.996	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$22,832					
		million in			\$54 million in	\$39 million	
4884	Support Activities for Road Transportation	receipts	424	0.996	receipts	in receipts	
		\$157,340			\$4,351	\$259	
		million in			million in	million in	
4885	Freight Transportation Arrangement	receipts	36	0.996	receipts	receipts	
		\$32,600				\$126	
		million in			\$811 million	million in	
4889	Other Support Activities for Transportation	receipts	40	0.996	in receipts	receipts	
		1,043,427			9,164	1,100	
4921	Couriers and Express Delivery Services	employees	101	0.887	employees	employees	
		\$24,426			\$1,274	\$153	
		million in			million in	million in	
4922	Local Messengers and Local Delivery	receipts	17	0.887	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$88,687			\$1,737	\$174	
		million in			million in	million in	
4931	Warehousing and Storage	receipts	51	0.999	receipts	receipts	
		296,067			271,131	2,700	
5121	Motion Picture and Video Industries	employees	1	0.916	employees	employees	
		27,136			12,579	1,200	
5122	Sound Recording Industries	employees	2	0.927	employees	employees	
	Newspaper, Periodical, Book, and Directory	282,981			92,117	2,050	
5131	Publishers	employees	3	0.977	employees	employees	
		874,323			762,423	3,600	
5132	Software Publishers	employees	1	0.872	employees	employees	
		\$26,510					
		million in			\$160 million	\$62 million	
51611	Radio Broadcasting Stations	receipts	166	1.000	in receipts	in receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
		\$91,820			\$18,364	\$482	
		million in			million in	million in	
51612	Television Broadcasting Stations	receipts	5	1	receipts	receipts	
	Media Streaming Distribution Services, Social	\$92,984			\$92,984	\$970	
	Networks, and Other Media Networks and	million in			million in	million in	
5162	Content Providers	receipts	1	1	receipts	receipts	
	Wired and Wireless Telecommunications	891,505			2,245	750	
5171	(except Satellite)	employees	389	0.980	employees	employees	
					\$1,675	\$172	
		\$8,553 million			million in	million in	
5174	Satellite Telecommunications	in receipts	5	0.979	receipts	receipts	
		\$27,799			\$3,024	\$221	
		million in			million in	million in	
5178	All Other Telecommunications	receipts	9	0.979	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$400,149			\$12,080	\$402	
	Computing Infrastructure Providers, Data	million in			million in	million in	
5182	Processing, Web Hosting, and Related Services	receipts	33	0.996	receipts	receipts	
	Web Search Portals, Libraries, Archives, and	388,048			364,614	2,950	
5192	Other Information Services	employees	1	0.940	employees	employees	
		\$866,292			\$3,039	\$5,031	
		million in			million in	million in	
5221	Depository Credit Intermediation	receipts	261	0.916	receipts	total assets	5
		\$864,104			\$27,706	\$575	
		million in			million in	million in	
5222	Nondepository Credit Intermediation	receipts	30	0.962	receipts	receipts	
		\$214,015			\$22,874	\$530	
		million in			million in	million in	
5223	Activities Related to Credit Intermediation	receipts	9	0.962	receipts	receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
		\$390,235			\$71,675	\$867	
	Securities and Commodity Contracts	million in			million in	million in	
5231	Intermediation and Brokerage	receipts	5	0.918	receipts	receipts	
		\$21,853			\$10,034	\$371	
		million in			million in	million in	
5232	Securities and Commodity Exchanges	receipts	2	0.918	receipts	receipts	
		\$603,613			\$102,568	\$1,011	
		million in			million in	million in	
5239	Other Financial Investment Activities	receipts	5	0.850	receipts	receipts	
		\$3,193,949			\$67,019	\$842	
		million in			million in	million in	
5241	Insurance Carriers	receipts	50	1.049	receipts	receipts	
		\$722,042			\$2,788	\$214	
	Agencies, Brokerages, and Other Insurance	million in			million in	million in	
5242	Related Activities	receipts	259	1	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$39,649					
		million in			\$72 million in	\$44 million	
5251	Insurance and Employee Benefit Funds	receipts	554	1	receipts	in receipts	1
					\$1,312	\$155	
		\$6,558 million			million in	million in	
5259	Other Investment Pools and Funds	in receipts	5	1	receipts	receipts	
		947,692			650	550	
5311	Lessors of Real Estate	employees	1457	1	employees	employees	
		\$292,534			\$1,481	\$163	
		million in			million in	million in	
5312	Offices of Real Estate Agents and Brokers	receipts	197	0.997	receipts	receipts	
		\$287,763			\$1,805	\$177	
		million in			million in	million in	
5313	Activities Related to Real Estate	receipts	159	0.997	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$107,390					
		million in			\$317 million	\$84 million	
5321	Automotive Equipment Rental and Leasing	receipts	334	0.984	in receipts	in receipts	
		116,556			138	500	
5322	Consumer Goods Rental	employecs	818	0.971	employecs	employecs	4
		\$6,459 million			\$13 million in	\$31 million	
5323	General Rental Centers	in receipts	500	0.971	receipts	in receipts	4
		\$119,533			\$6,072	\$299	
	Commercial and Industrial Machinery and	million in			million in	million in	
5324	Equipment Rental and Leasing	receipts	19	0.965	receipts	receipts	
		\$63,471			\$2,010	\$186	
	Lessors of Nonfinancial Intangible Assets	million in			million in	million in	
5331	(except Copyrighted Works)	receipts	17	0.538	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$485,818			\$3,930	\$248	
		million in			million in	million in	
5411	Legal Services	receipts	120	0.971	receipts	receipts	
		\$278,400					
	Accounting, Tax Preparation, Bookkeeping,	million in			\$441 million	\$97 million	
5412	and Payroll Services	receipts	634	1.004	in receipts	in receipts	
		\$62,230				\$135	
		million in			\$964 million	million in	
54131	Architectural Services	receipts	61	0.945	in receipts	receipts	
		\$9,419 million			\$139 million	\$59 million	
54132	Landscape Architectural Services	in receipts	64	0.945	in receipts	in receipts	
		\$385,791			\$4,097	\$252	
		million in			million in	million in	
54133	Engineering Services	receipts	89	0.945	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$2,938 million			\$26 million in	\$31 million	
54134	Drafting Services	in receipts	108	0.945	receipts	in receipts	4
		\$6,069 million			\$46 million in	\$36 million	
54135	Building Inspection Services	in receipts	125	0.945	receipts	in receipts	
					\$2,503	\$204	
		\$2,648 million			million in	million in	
54136	Geophysical Surveying and Mapping Services	in receipts	1	0.945	receipts	receipts	
		\$11,358					
	Surveying and Mapping (except Geophysical)	million in			\$398 million	\$92 million	
54137	Services	receipts	27	0.945	in receipts	in receipts	
		\$32,556			\$1,338	\$156	
		million in			million in	million in	
54138	Testing Laboratories and Services	receipts	23	0.945	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$58,063			\$1,389	\$158	
		million in			million in	million in	
5414	Specialized Design Services	receipts	42	1.004	receipts	receipts	
		\$823,947			\$23,045	\$531	
	Computer Systems Design and Related	million in			million in	million in	
5415	Services	receipts	36	1.007	receipts	receipts	
		\$581,397			\$5,896	\$295	
	Management, Scientific, and Technical	million in			million in	million in	
5416	Consulting Services	receipts	91	0.923	receipts	receipts	
	Research and Development in the Physical,	901,205			296,223	2,800	
54171	Engineering, and Life Sciences	employees	3	0.986	employees	employees	
		\$11,726			\$3,854	\$246	
	Research and Development in the Social	million in			million in	million in	
54172	Sciences and Humanities	receipts	3	0.986	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$175,109			\$24,223	\$543	
5418	Advertising, Public Relations, and Related Services	million in receipts	7	0.968	million in receipts	million in receipts	
		\$252,327					
5419	Other Professional, Scientific, and Technical Services	million in receipts	1654	0.986	\$150 million in receipts	\$61 million in receipts	
		\$281,823			\$4,584	\$265	
		million in			million in	million in	
5511	Management of Companies and Enterprises	receipts	61	0.992	receipts	receipts	
		\$132,547				\$127	
		million in			\$839 million	million in	
5611	Office Administrative Services	receipts	158	1	in receipts	receipts	
		\$46,931			\$1,341	\$156	
		million in			million in	million in	
5612	Facilities Support Services	receipts	35	1	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$677,509			\$1,225	\$150	
		million in			million in	million in	
5613	Employment Services	receipts	554	1.002	receipts	receipts	2
		\$145,936			\$2,557	\$206	
		million in			million in	million in	
5614	Business Support Services	receipts	57	0.999	receipts	receipts	
		\$87,990			\$4,151	\$254	
		million in			million in	million in	
5615	Travel Arrangement and Reservation Services	receipts	21	0.991	receipts	receipts	
		\$100,705			\$2,014	\$186	
		million in			million in	million in	
5616	Investigation and Security Services	receipts	50	1.000	receipts	receipts	
		\$335,415					
		million in			\$137 million	\$58 million	
5617	Services to Buildings and Dwellings	receipts	2456	1.000	in receipts	in receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$77,898				\$104	
		million in			\$524 million	million in	
5619	Other Support Services	receipts	147	0.989	in receipts	receipts	
		\$86,813					
		million in			\$51 million in	\$38 million	
5621	Waste Collection	receipts	1720	1.001	receipts	in receipts	
		\$30,771			\$1,811	\$178	
		million in			million in	million in	
5622	Waste Treatment and Disposal	receipts	17	1.001	receipts	receipts	
		\$49,780				\$113	
	Remediation and Other Waste Management	million in			\$630 million	million in	
5629	Services	receipts	79	1.001	in receipts	receipts	
		\$1,244,643					
		million in			\$400 million	\$93 million	
6111	Elementary and Secondary Schools	receipts	3109	1	in receipts	in receipts	1

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$81,972			\$1,667	\$171	
		million in			million in	million in	
6112	Junior Colleges	receipts	49	0.997	receipts	receipts	1
		\$866,188			\$17,616	\$473	
	Colleges, Universities, and Professional	million in			million in	million in	
6113	Schools	receipts	49	0.997	receipts	receipts	1
		\$21,797			\$1,363	\$157	
	Business Schools and Computer and	million in			million in	million in	
6114	Management Training	receipts	16	1.000	receipts	receipts	
		\$20,371					
		million in			\$127 million	\$56 million	
6115	Technical and Trade Schools	receipts	161	1.000	in receipts	in receipts	
		\$43,723			\$1,325	\$155	
		million in			million in	million in	
6116	Other Schools and Instruction	receipts	33	1.000	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$29,145			\$5,830	\$294	
		million in			million in	million in	
6117	Educational Support Services	receipts	5	1.000	receipts	receipts	
		\$805,692				\$101	
		million in			\$487 million	million in	
6211	Offices of Physicians	receipts	1655	1.000	in receipts	receipts	
		\$199,546					
		million in			\$64 million in	\$42 million	
6212	Offices of Dentists	receipts	3109	0.999	receipts	in receipts	
		\$190,497					
		million in			\$65 million in	\$42 million	
6213	Offices of Other Health Practitioners	receipts	2934	0.999	receipts	in receipts	
		\$275,046			\$1,627	\$170	
		million in			million in	million in	
6214	Outpatient Care Centers	receipts	169	0.999	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$95,053			\$1,043	\$140	
		million in			million in	million in	
6215	Medical and Diagnostic Laboratories	receipts	91	0.998	receipts	receipts	
		\$148,391					
		million in			\$268 million	\$78 million	
6216	Home Health Care Services	receipts	554	0.999	in receipts	in receipts	2
		\$80,366					
		million in			\$125 million	\$56 million	
6219	Other Ambulatory Health Care Services	receipts	641	0.998	in receipts	in receipts	
		\$1,530,696			\$1,107	\$144	
		million in			million in	million in	
6221	General Medical and Surgical Hospitals	receipts	1385	1.002	receipts	receipts	
		\$38,963					
		million in			\$420 million	\$95 million	
6222	Psychiatric and Substance Abuse Hospitals	receipts	93	1.002	in receipts	in receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$72,239 million in receipts	7	1.002	\$10,336 million in receipts	\$376 million in receipts	
		\$166,623					
6231	Nursing Care Facilities (Skilled Nursing Facilities)	\$148 million in receipts	1125	1.000	\$60 million in receipts	\$481 million in receipts	
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities	\$73,101 million in receipts	4	0.998	\$18,247 million in receipts	\$481 million in receipts	
		\$98,379					
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly	\$565 million in receipts	174	1.000	\$71 million in receipts	\$213 million in receipts	
		\$12,381					
6239	Other Residential Care Facilities	\$213 million in receipts	58	0.998	\$71 million in receipts	\$213 million in receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$187,820			\$26,831	\$568	
		million in			million in	million in	
6241	Individual and Family Services	receipts	7	1	receipts	receipts	
		\$21,712					
		million in			\$99 million in	\$51 million	
62421	Community Food Services	receipts	219	1	receipts	in receipts	
		\$25,148				\$104	
		million in			\$524 million	million in	
62422	Community Housing Services	receipts	48	1	in receipts	receipts	
		\$17,294			\$17,294	\$470	
		million in			million in	million in	
62423	Emergency and Other Relief Services	receipts	1	1	receipts	receipts	
		\$18,106				\$101	
		million in			\$489 million	million in	
6243	Vocational Rehabilitation Services	receipts	37	1	in receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$83,373					
		million in			\$27 million in	\$31 million	
6244	Child Care Services	receipts	3109	1	receipts	in receipts	4
		\$26,740			\$2,232	\$194	
		million in			million in	million in	
7111	Performing Arts Companies	receipts	12	1.002	receipts	receipts	
		\$76,969			\$1,682	\$172	
		million in			million in	million in	
7112	Spectator Sports	receipts	46	1.005	receipts	receipts	
		\$56,863			\$3,141	\$225	
	Promoters of Performing Arts, Sports, and	million in			million in	million in	
7113	Similar Events	receipts	18	0.994	receipts	receipts	
		\$16,891			\$8,397	\$344	
	Agents and Managers for Artists, Athletes,	million in			million in	million in	
7114	Entertainers, and Other Public Figures	receipts	2	0.994	receipts	receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$74,457			\$36,878	\$651	
		million in			million in	million in	
7115	Independent Artists, Writers, and Performers	receipts	2	0.991	receipts	receipts	
		\$16,356					
		million in			\$606 million	\$111 million	
71211	Museums	receipts	27	1.000	in receipts	in receipts	
					\$1,555	\$166	
		\$1,555 million			million in	million in	
71212	Historical Sites	in receipts	1	1.000	receipts	receipts	
		\$6,718 million			\$320 million	\$84 million	
71213	Zoos and Botanical Gardens	in receipts	21	1.000	in receipts	in receipts	
		\$1,379 million			\$459 million	\$98 million	
71219	Nature Parks and Other Similar Institutions	in receipts	3	1.000	in receipts	in receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
7131	Amusement Parks and Arcades	\$30,681			\$10,227	\$374	
		million in			million in	million in	
		receipts	3	1.000	receipts	receipts	
		\$50,241			\$50,241	\$744	
7132	Gambling Industries	million in			million in	million in	
		receipts	1	1.000	receipts	receipts	
		\$131,164					
		million in			\$104 million	\$52 million	
7139	Other Amusement and Recreation Industries	receipts	1267	1.000	in receipts	in receipts	
		\$344,327			\$20,255	\$503	
		million in			million in	million in	
		receipts	17	1	receipts	receipts	
7211	Traveler Accommodation	\$10,812					
		million in			\$264 million	\$77 million	
		RV (Recreational Vehicle) Parks and					
		receipts	41	1	in receipts	in receipts	
7212	Recreational Camps						

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps	\$3,374 million in receipts 831,588	61	1	\$55 million in receipts 1,985	\$39 million in receipts 700	
7223	Special Food Services	employees 419,230	418	0.998	employees 1,603	employees 700	
7224	Drinking Places (Alcoholic Beverages)	employees 10901307	261	0.998	employees 3,496	employees 850	
7225	Restaurants and Other Eating Places	employees \$221,191 million in	3109	0.997	employees \$71 million in	employees \$44 million	
8111	Automotive Repair and Maintenance	receipts \$28,898	3109	1.000	receipts	in receipts	
8112	Electronic and Precision Equipment Repair and Maintenance	million in receipts	84	1.000	\$344 million in receipts	\$87 million in receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic)	\$68,754 million in			\$11,456 million in	\$393 million in	
	Repair and Maintenance	receipts	6	1.000	receipts	receipts	
		\$23,212					
8114	Personal and Household Goods Repair and Maintenance	million in			\$20 million in	\$31 million	
		receipts	1283	1.087	receipts	in receipts	4
		\$124,426					
8121	Personal Care Services	million in			\$40 million in	\$34 million	
		receipts	3109	1	receipts	in receipts	
		\$30,032					
8122	Death Care Services	million in			\$55 million in	\$39 million	
		receipts	551	1	receipts	in receipts	
		\$39,484					
8123	Drycleaning and Laundry Services	million in			\$43 million in	\$35 million	
		receipts	929	1	receipts	in receipts	

NAICS	Description	National Industry Size	Geographic Markets	Net Import Adjustment	Average Market Size	Size Standard	Notes
		\$78,421					
		million in			\$114 million	\$54 million	
8129	Other Personal Services	receipts	688	1	in receipts	in receipts	
		\$209,334					
		million in			\$254 million	\$76 million	
8131	Religious Organizations	receipts	825	1	in receipts	in receipts	
		\$223,314			\$14,888	\$440	
		million in			million in	million in	
8132	Grantmaking and Giving Services	receipts	15	1	receipts	receipts	
		\$57,523			\$11,505	\$394	
		million in			million in	million in	
8133	Social Advocacy Organizations	receipts	5	1	receipts	receipts	
		\$25,965			\$3,709	\$242	
		million in			million in	million in	
8134	Civic and Social Organizations	receipts	7	1	receipts	receipts	

NAICS	Description	National	Geographic	Net Import	Average	Size	Notes
		Industry Size	Markets	Adjustment	Market Size	Standard	
		\$137,991			\$34,498	\$632	
	Business, Professional, Labor, Political, and	million in			million in	million in	
8139	Similar Organizations	receipts	4	1	receipts	receipts	

Notes: Average Market Size is calculated as National Industry Size divided by number of geographic markets multiplied by the net import adjustment. Values reported may not match exactly due to rounding. Small Business size standards are a function of average market size. See the main body for details on the formula.

- 1 For this industry group or industry a nonstandard data source was used to calculate the national industry size. Additionally, due to this nonstandard data source the geographic market is assumed based on known characteristics. See the main body for further details.
- 2 For this industry group the calculated number of geographic markets has been overwritten. The discrepancy is caused by the mobile nature of the workers in the industry. See the main body for further details.
- 3 The BEA uses a different categorization of construction than NAICS, so there is not a one-to-one correspondence. Given the immovable nature of most construction projects, the net import adjustment is set to one for all industry groups and industries in the construction sector.
- 4 This industry group or industry has been given the minimum size standard due to its small average market size.
- 5 Depository Institutions have been given an asset based size standard. See the main body for further details on its calculation.

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